General and special amnesty, commutation of punishment, reprieve, and restoration of rights.

Awarding of honors.

Receiving foreign ambassadors and ministers.

Performance of ceremonial functions.

Article 8. No property can be given to, or received by, the Imperial House, and no receipts and disbursements can be made thereby, without the authorization of the Diet.

CHAPTER 2
RENUNCIATION OF WAR

Article 9. War, as a sovereign right of the nation, and the threat or use of force, is forever abolished as a means of settling disputes with other nations.

The maintenance of land, sea, and air forces, as well as other war potential, and the right of belligerency of the state will not be recognized.

CHAPTER 3
RIGHTS AND DUTIES OF THE PEOPLE

Article 10. The people shall not be prevented from enjoying any of the fundamental human rights. In view of their historical backgrounds precious to all, these fundamental human rights guaranteed to the people by this constitution shall be conferred upon the people of this and future generations as eternal and inviolate rights.

Article 11. The enjoyment of the freedoms and rights guaranteed to the people by this constitution shall be maintained by the eternal vigilance of the people, and the people shall refrain from any abuse of these freedoms and rights and shall always be responsible for utilizing them for the public welfare.

Article

Article 12. All of the people shall be respected as individuals, and their right to life, liberty, and the pursuit of happiness shall, within the limits of the public welfare, be the supreme consideration in legislation and in governmental affairs.

Article 13. All of the people are equal under the law and there shall be no discrimination in political, economic, or social relations because of race, creed, sex, social status, or family origin. No privilege shall accompany peerage, decoration or any distinction.

Article 14. Aliens shall have equal rights to receive protection of law.

Article 15. Government officials and other public officials are public servants of the state and society, and the source of power to choose and to dismiss them resides in the whole people.

Article 16. In all elections, secrecy of the ballot shall be preserved inviolate, nor shall any voter be answerable for the choice of candidates he has made.

Article 17. All of the people have the right of petition for the redress of damage. For the removal of public officials and for the enactment, repeal or amendment of laws and ordinances, nor shall they be inflicted any harm for sponsoving such a petition.

Article 18. All of the people shall have the freedom of religion, nor shall they be compelled to take part in worship, prayer and other religious acts.

No religious organization shall take part in politics, nor receive any privilege from the State.

The State and its organs shall refrain from religious education or any other religious activity.

Article

Article 19. Freedom of thought and conscience are gusranteed to all of the people.

Article 20. All of the people shall have the freedom of speech, writing, press, assembly and association to the extent that they do not conflict with the public peace and order.

No censorship shall be maintained except as specifically provided for by law.

Article 21. The secrecy of letter and other means of communication is guaranteed to all of the people, provided that necessary measures to be taken for the maintenance of public peace and order, shall be provided by law.

Article 22. Academic freedom is guaranteed to all of the people.

Article 23. All of the people shall have the right to receive an equal education corresponding to his ability as provided by law. Such education shall be free.

Article 24. All of the people shall have the right to work as provided for by law.

Matters pertaining to wages, working hours and other working conditions shall be fixed by law.

Article 25. Workers shall have the right to organize and to bargain and act collectively as provided by law.

Article 26. All of the people shall have freedom to choose and change their residence and to choose their occupation to the extent that it does not interfere with the public welfare.

Freedom of all of the people to move to a foreign country and to divest themselves of their nationality shall be inviolate.

Article 27. All of the people shall not be denied the right to be tried by the judges as prescribed by law.

Article

Article 28. All of the people shall not be deprived of life or liberty, nor shall any criminal penalty be imposed upon them, except according to law.

No cruel punishments shall be inflicted.

Article 29. All of the people shall not be held in hondage of any kind against their will, nor shall they be campelled to servitude, except as punishment for crime.

The exploitation of children shall be prohibited.

Article 30. No person shall be apprehended except upon duly issued warrant unless he is apprehended while committing a crime, nor shall he be detained without adequate cause.

The infliction of torture is forbidden.

Article 31. No person shall be reexamined for the same crime for which the judgement of court has become irrevocable except in the case of reexamination as provided by law.

Article 32. No person shall be compelled to confess or testify against himself.

No confession shall be admitted in evidence if made directly or indirectly under compulsion, torture or threat.

No person shall be convicted in cases where the only proof of crime is his own confession.

Article 33. No person shall be punished retroactively for an act which was lawful at the time it was committed.

Article 34. All of the people shall be secure in their homes against entries and searches except as provided for by law.

Except in cases of emergency, entries into homes, searches and seizures shall not be made except upon duly issued warrant.

Article 35. The right to own property is guaranteed to all of the people.

The substance and scope of property rights shall be defined by law in conformity with the public welfare.

Necessary measures to be taken for the public welfare shall be prescribed by law, provided that just compensation be made therefor.

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Article 36. Property rights is accompanied by obligations. Its use shall be made for the public welfare.

Article 37. Marriage shall be based only on the mutual consent of both sexes and it shall be maintained through mutual cooperation, with the equal rights of husband and wife as a basis.

Article 38. All laws and ordinances pertaining to the national livelihood shall be designed for the guarantee of freedom, enhancement of justice and for the promotion and extension of public welfare and of democracy.

CHAPTER 4
THE DIET

Article 39. The Diet shall be the highest organ of state power, and shall exercise the legislative power.

Article 40. The Diet shall consist of two houses, namely the House of Representatives and the House of Councillors.

Article 41. The House of Pepresentatives shall consist of elected members.

The number of the members of the House of Representatives shall be fixed by law between three hundreds (300) and five hundreds (500).

Article 42. The qualifications of electors and candidates for the Houses of Representatives shall be fixed by law. However, there shall be no discrimination because of sex, race, religion, or social status.

Article 43. The term of office of members of the House of Representatives shall be 4 years. However, the term may be terminated before the full term is up, by dissolution of the House of Representatives.

Article 44. Matters pertaining to the method of election of members of the House of Representatives, electoral districts, and method of voting, shall be fixed by law.

Article 45. The House of Councillors shall consist of membe elected for the various districts or professions and members appointed by the Cabinet upon resolution of a committee consisting of members of both Houses.

The number of members of the House of Councillors shall be fixed by law between two hundreds (200) and three hundreds (300).

Article 46. The term of office of the members of the House of Councillors shall be six years, except for half the members serving in the first term. Election for half the members of each kind shall take place every three years.

Article 47. Matters pertaining to the election or appointment of members of the House of Councillors, the number of members of each kind and qualifications of candidates therefor shall be fixed by law.

Article 48. No person shall be permitted to be a member of both Houses simultaneously.

Article 49. Members of both Houses shall receive appropriate annual payment from the national treasury in accordance with law.

Article 50. Except in cases provided by law, members of both Houses shall be exempt from arrest while the Diet is in session. Any member arrested before the opening of the session shall be freed during the term of the session upon demand of his House.

Article 51. Members of both Houses shall not be held liable outside the House for speeches, debates, or votes cast inside the House.

Article 52. The Diet shall be convoked at least once per year.

Article 53. The Cabinet may call extraordinary sessions of the Diet. When a quarter or more of the total members of either House makes the demand, the Diet must be called into session.

Article 54. When the House of Representatives is ordered dissolved, there must be a general election of members of the House of Representatives during the period within thirty (30) or forty (40) days from the date of dissolution, and the Diet must be convoked within thirty (30) days from the date of the election. When the House of Representatives is ordered dissolved the House of Councillors must, at the same time, be closed.

Article 55. The House of Representatives shall not be dissolved repeatedly for the same cause.

In order to pass the judgment denying a seat to anyone certified to have been elected, it is necessary to pass a resolution by a majority of two-thirds or more of the members present.

Article 57. Business cannot be transacted in either House unless at least one-third of the total membership is present.

All matters shall be decided, in each House, by a majority of those present, except as elsewhere provided in the Constitution. In case of a tie, the presiding officer shall decide the issue.

Article 58. Deliberation in each House shall be public. No secret meetings shall be held.

Each House shall keep a record of proceedings. This record shall be published and distributed to the public.

Upon demand of one-fifth or more of the members present, votes of the members on any matter shall be recorded in the minutes.

Article 59. Each House shall select its own president and other officials.

Each House shall establish its rules and regulations pertaining to meetings and proceedings, and may punish members for disorderly conduct. However, in order to expel a member, a mojority of two-thirds or more of those members present must pass a resolution thereon.

Article

Article 60. No law shall be passed except by bill.

A bill becomes a law on passage by both Houses.

A bill, which is passed a third time consecutively by the House of Representatives and sent to the House of Councillors, becomes a law, regardless of whether the decision of the House of Councillors is made or not, upon the lapse of two years since the day when the House of Representatives opened the business on the bill for the first time.

Article 61. The budget must first be submitted to the House of Representatives.

Upon consideration of the budget, when the House of Councillors makes a decision different from that of the House of Representatives, and when a joint committee of both Houses, provided for by law, cannot come to an agreement, the decision of the House of Representatives will be considered the decision of the Diet.

Article 62. The second paragraph of the preceding article applies also to the Diet approval required for the conclusion of treaties, and international conventions and agreements.

Article 63. Each House may conduct investigations in relation to national affairs, and may compel the presence and testimony of witnesses, and the production of records. In such cases, each House can punish in accordance with law, those who do not comply with the demands.

Article 64. The Prime Minister, and the Ministers of State, may at any time, appear in either House for the purpose of debating on bills, regardless of whether they are members of the House or not. They must appear when their answer to interpellations or questions is required.

Article 65. The Diet shall set up an impeachment court from the members of both Houses for the purpose of trying those judges against whom removal proceedings have been instituted.

Article 66. The Diet shall enact all laws necessary to carry into execution the provisions of this Constitution.

CHAPTER

CHAPTER 5
THE CABINE

Article 67. Executive power shall be vested in the Cabinet.

Article 68. The Cabinet shall consist of the Prime Minister, who shall be its head, and other Ministers of State as provided for by law.

The Cabinet, in the exercise of executive power, shall be collectively reponsible to the Diet.

Article 69. The Prime Minister shall be designated by a resolution of the Diet. This designation shall precede all other business.

If the House of Representatives and the House of Councillors disagree and if a joint committee of both houses, provided for by law, cannot reach an agreement, the decision of the House of Represenatives shall be the decision of the Diet.

Article 70. The Prime Minister shall, with the approval of the Diet, designate the Ministers of State. The second paragraph of the preceding article shall apply to this approval.

The Prime Minister may decide on the removal of Ministers of State as he chooses.

Article 71. If the House of Representatives passes no-confidence resolution, or fails to pass a confidence resolution, the Cabinet shall resign en masse, unless it dissolves the House of Representatives within ten days.

Article 72. When there is a vacancy in the post of Prime Minister, or upon the convocation of the Diet after a general election caused by the expiration of term of members of the House of Representatives, the Cabinet shall resign en masse.

Article 73. In the cases mentioned in the preceding two articles, the Cabinet shall continue its functions until the time when a new Prime Minister is appointed.

Article 74. The Prime Minister, representing the Cabinet, submits bills, reports on general national affairs and foreign relations to the Diet, and exercises supervision and control over various administrative branches.

Article 75. The Cabinet, in addition to other general administrative functions shall:

Administer the law faithfully; conduct affairs of State.

Manage foreign affairs.

Conclude treaties, international conventions and agreements. However, it shall obtain prior or, depending on circumstances, subsequent approval of the Diet.

In accordance with standards established by the Diet, manage internal administrative affairs.

Prepare the budget, and present it to the Diet.

Enact and promulgate orders and regulations in order to carry out the provisions of this Constitution and of the law. However, it cannot include penal provisions in such orders and regulations.

Decide on general amnesty, special amnesty, commutation of punishment, reprieve, and restoration of rights.

Article 76. In cases where the Diet cannot be convoked due to the dissolution of the House of Representatives and other causes the Cabinet may, if there is a particularly urgent necessity for the maintenance of the public safety, enact a cabinet order to be substituted for law or budget on the condition that a subsequent approval of the Diet be obtained therefor.

Article 77. All laws and orders shall be signed by the competent Minister of State, and countersigned by the Prime Minister.

Article 78. The Ministers of State, during their tenure of office, shall not be subject to legal action without the consent of the Prime Minister, but the right to take that action is not impaired hereby.

CHAPTER 6
JUDICIARY

Article 79. Judicial power shall independently be exercised by the court.

The Court shall consist of a Supreme Court and such other inferior courts as provided by law.

No

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No extraordinary tribunal shall be established.

Article 80. The Supreme Court shall be the Court of last resort.

Article 81. As for litigations on the constitutionality of law and order, or administrative act pertaining to the provisions of Chapter III of this Constitution, the trial of the Supreme Court shall be final.

The Diet may review the judgement of the Supreme Court in litigations on the constitutionality of law and order or administrative acts other than those mentioned in the preceding paragraph. In such cases the judgement of the Supreme Court shall not be reversed unless by the concurring vote of two-thirds of all the members of each House of the Diet.

The procedure of review in the preceding paragraph shall be fixed by law.

Article 82. The Supreme Court shall have the sole Jurisdiction over cases involving ambassadors, ministers and consuls of foreign states.

Article 83. All judges shall strictly and impartially execute their duty according to their conscience.

Judges shall be bound, in the exercise of their duty, only by this Constitution and laws.

Article 84. The appointment of the judges of the Supreme Court shall be reviewed by the people at the first general election of the House of Representatives following their appointment, and shall be reviewed again at the first general election of the House of Representatives after a lapse of ten years, and in the same manner thereafter.

In cases mentioned in the foregoing paragraph, when the majority of the voters show that they favor the dismissal of a judge, he shall be dismissed.

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Matters pertaining to the review mentioned in the foregoing paragraphs shall be prescribed by law.

Article 85. The judges of the inferior courts shall be appointed from among candidates of at least twice the required number, who will be nominated by the Supreme Court.

The judges of the in ferior courts shall hold office for a term of ten (10) years with privilege of reeppointment.

Article 86. The judges shall be retired automatically upon the attainment of the age of seventy (70) years.

Article 87. Except in case mentioned in the preceding three Articles, the judges shall not be dismissed unless by penal sentence, judgement of impeachment court or judgement of dismissal by the court as a disciplinary action or on account of mental or physical incompetency.

Matters portaining to impeachment shall be provided by law.

Article 88. The judges shall receive adequate compensation as provided by law. The compensation of judges shall not be decreased against their will unless as a disciplinary action or for other reasons as specifically provided by law.

Article 89. Trials shall be conducted and judgement declared publicly. Where, however, a court determines publicity to be dangerous to public order and morals as provided for by law, a trial may be conducted privately.

The provisc of the preceding paragraph shall not be applied to trials of political offenses, offenses involving the press, and other cases wherein tne rights of people as guaranteed in Chapter 3 of this Constitution are in question.

Article 90. The Supreme Court may determine the details of procedure, the internal discipline of the courts and other rules necessary for the administration of judicial affairs except as provided by this Constitution and laws.

An inforior court may determine its rules necessary for the administration of judicial affairs as authorized by the Supreme Court.

CHAPTER

CHAPTER 7
FINANCE

Article 91. Imposition of new taxes or modification of existing ones shall be prescribed by law:

The existing taxes shall continue to be collected as heretofore unless changed or modified by law.

Article 92. No national loan shall be raised, nor shall any contract imposing a burden on the national treasury be entered into in the absence of an appropriation therefor except as authorized by the Diet.

Article 93. Matters pertaining to the determination of the value of currency and issuance thereof shall be provided by law.

Article 94. An annual budget setting forth annual expenditure and revenue of the State shall be submitted to the Diet for approval.

Article 95. In order to provide for unavoidable deficiencies in the budget or for necessary expenditures outside the appropriation of the budget a reserve fund shall be established.

Payments from the reserve fund shall be subject to a subsequent approval of the Diet.

Article 96. The budget concerning allowances and expenses of the Imperial Household shall constitute a part of the national budget. The same shall apply to the income and expenditure arising from Imperial properties other than the hereditary estates.

Article 97. Neither the State nor the local public entity shall appropriate money or other properties for religious associations. The same shall apply to appropriations for charitable, educational and other similar purposes not under the control of the

Article 98. A final audit of annual expenditures and revenues of the State shall be made and determined by board of audit and submitted by the Cabinet to the Diet during the fiscal year immediately following the period covered.

The organization and competency of the board of audit shall be fixed by law.

Article

Article 99. At least annually the Cabinet shall report to the Diet and the people on the state of national finances.

Article 100. Matters pertaining to national finances and state property shall be prescribed by law except as provided in this Chapter.

CHAPTER 8
LOCAL SELF GOVERNMENT

Article 101. Regulations concerning organization and operations of local public entities shall be fixed by law in accordance with the principle of local autonomy.

Article 102. The local public entities shall establish assemblies as their deliberative organs, in accordance with law.

The chief executive officers of the local public entities having the power to levy local taxes, the members of their legislative assemblies shall be elected by inhabitants thereof.

Article 103. Inhabitants of local public entities shall have the right of self government and may enact by-laws and regulations within law.

Article 104. A special law applicable only to one local public entity, cannot be enacted by the Diet without the consent of the majority of the voters of the local public entity concerned, obtained in accordance with law.

CHAPTER 9
SUPPLEMENTARY PROVISIONS

Article 105. Amendments to this Constitution shall be initiated by the Diet and submitted to the people for ratification.

The initiative of the Diet shall not be taken unless by a concurring vote of two-thirds of more of all the members of each House.

The ratification of the people shall be dicided by a majority of all votes cast therefor at such national referendum as law shall prescribe.

Draft amendments to this Constitution shall become final as the amendments to this Constitution upon ratification by the people.

Amendments to this Constitution shall be proclaimed by the Emperor in accordance with the provisions of Article 7 of this Constitution.

Article 106. Amendments to the Imperial House Law shall be initiated by the Emperor in accordance with the provisions of Article 3 of this Constitution by submitting to the Diet a draft which shall be decided under the same provisions as in the case of a bill.

Amendments to the Imperial House Law as passed by the Diet under the preceding paragraph shall be proclaimed by the Emperor in accordance with the provisions of Article 7 of this Constitution.

Article 107. This Constitution and the laws and treaties made in pursuance hereof shall be the supreme law of the state and no law or ordinance and no imperial rescript or other administrative acts contrary to the provisions thereof, shall have legal force or validity.

Article 108. The Ministers of State, members of the Diet, judges and all other public officials in office at the time of the enforcement of this Constitution, shall remain at their posts in accordance with existing provisions of law regardless of the provisions of this Constitution, until their successors are elected or appointed.

Article 109. The Emperor or the Regent, the Ministers of State, the members of the Diet, judges, and all other public officials have the obligation to respect and uphold this Constitution.

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CONSTITUTION OF JAPAN
(Cabinet Draft)

We, the Japanese people, acting through our duly elected representatives in the National Diet, determined that we shall secure for ourselves and our posterity the fruits of peaceful cooperation with all nations and the blessings of liberty throughout this land, and resolved that never again shall we be visited with the horrors of war through the action of government, do proclaim the sovereignty of the people's will and do ordain and establish this Constitution, founded upon the universal principle that government is a sacred trust the authority for which is derived from the people, the powers of which are exercised by the representatives of the people, and the benefits of which are enjoyed by the people; and we reject and revoke all constitutions, laws, ordinances, and rescripts in conflict herewith.

Desiring peace for all time and fully conscious of the high ideals controlling human relationship now stirring mankind, we have determined to rely for our security and survival upon the justice and good faith of the peace-loving peoples of the world. We desire to occupy an honored place in an international society designed and dedicated to the preservation of peace, and the banishment of tyranny and slavery, oppression and intolerance, for all time from the earth. We recognize and acknowledge that all peoples have the right to live in peace, free from fear and want.

We hold that no people is responsible to itself alone, but that laws of political morality are universal; and that obedience to such laws is incumbent upon all peoples who would sustain their own sovereignty and justify their sovereign relationship with other peoples.

To these high principles and purposes we, the Japanese People, pledge our national honor, determined will and full resources.

CHAPTER I

THE EMPEROR

Article I. The Emperor shall be the symbol of the state and of the unity of the people, deriving his position from the sovereign will of the people.

Article II. The Imperial Throne shall be dynastic and succeeded to in accordance with the Imperial House Law passed by the Diet.

Article III. The advice and approval of the Cabinet shall be required for all acts of the Emperor in matters of state, and the Cabinet shall be responsible therefor.

Article IV. The Emperor shall perform only such state functions as are provided for in this constitution. Never shall he have powers related to government.

The Emperor may delegate his functions as may be provided by law.

Article V. When, in accordance with the Imperial House Law, a regency is established, the Regent shall exercise his functions in the Emperor's name. In this case, paragraph one of the preceding article will be applicable.

Article VI. The Emperor shall appoint the Prime Minister as designated by the Diet.

Article VII. The Emperor, with the advice and approval of the Cabinet, shall perform the following functions of state on behalf of the people:

Promulgation of amendments of the constitution, laws, cabinet orders and treaties.

Convocation of the Diet.

Dissolution of the House of Representatives.

Proclamation of general elections.

Attestation of the appointment and dismissal of Ministers of State,

Ambassadors, and other officials as provided for by law.

Attestation of general and special amnesty, commutation of punishment, reprieve, and restoration of rights.

Awarding of honors.

Receiving foreign ambassadors and ministers.

Performance of ceremonial functions.

Article VIII. No property can be given to, or received by, the Imperial House, and no receipts and disbursements can be made thereby, without the authorization of the Diet.

CHAPTER 2

RENUNCIATION OF WAR

Article IX. War, as a sovereign right of the nation, and the threat or use of force, is forever renounced as a means of settling disputes with other nations.

The maintenance of land, sea, and air forces, as well as other war potential, will never be authorized. The right of belligerency of the state will not be recognized.

CHAPTER 3

RIGHTS AND DUTIES OF THE PEOPLE

Article X. The people shall not be prevented from enjoying any of the fundamental human rights. These fundamental human rights guaranteed to the

people by this constitution shall be conferred upon the people of this and future generations as eternal and inviolate rights.

Article XI. The enjoyment of the freedoms and rights guaranteed to the people by this constitution shall be maintained by the eternal vigilance of the people, and the people shall refrain from any abuse of these freedoms and rights and shall always be responsible for utilizing them for the public welfare.

Article XII. All of the people shall be respected as individuals, and their right to life, liberty, and the pursuit of happiness shall, within the limits of the public welfare, be the supreme consideration in legislation and in governmental affairs.

Article XIII. All natural persons are equal under the law and there shall be no discrimination in political, economic, or social relations because of race, creed, sex, social status, or family origin. No right of peerage shall from this time forth embody within itself any national or civic power of government, nor shall peerage extend beyond the lives of those now in being. No privilege shall accompany any award of honor, decoration or any distinction: Nor shall any such award be valid beyond the lifetime of the individual who now holds or hereafter may receive it.

Article XIV. The people have the inalienable right to choose their public officials and to dismiss them.

All public officials are servants of the whole community and not of any special group.

In all elections, secrecy of the ballot shall be preserved inviolate, nor shall any voter be answerable, publicly or privately, for the choice he has made.

Article XV. Every person has the right of peaceful petition for the redress of damage and other matters, for the removal of public officials and

for the enactment, repeal or amendment of laws, ordinances or regulations; nor shall any person be in any way discriminated against for sponsoring such a petition.

Article XVI. No person shall be held in bondage of any kind. Involuntary servitude, except as punishment for crime, is prohibited.

Article XVII. Freedom of thought and conscience shall be held inviolable.

Article XVIII. Freedom of religion is guaranteed to all. No religious organization shall receive any privilege from the State, nor exercise any political authority.

No person shall be compelled to take part in any religious act, celebration, rite, or practice.

The State and its organs shall refrain from religious education or any other religious activity.

Article XIX. Freedom of assembly, association, speech, and press and all other forms of expression are guaranteed. No censorship shall be maintained, nor shall the secrecy of any means of communication be violated.

Article XX. Every person shall have freedom to choose and change his residence and to choose his occupation to the extent that it does not interfere with the public welfare.

Freedom of all persons to move to a foreign country and to divest themselves of their nationality shall be inviolate.

Article XXI. Academic freedom is guaranteed.

Article XXII. Marriage shall be based only on the mutual consent of both sexes and it shall be maintained through mutual cooperation, with the equal rights of husband and wife as a basis. Laws shall be enacted considering choice of spouse, property rights, inheritance, choice of domicile, divorce and other

matters pertaining to marriage and the family from the standpoint of individual dignity and the essential equality of the sexes.

Article XXIII. In all spheres of life, laws shall be designed for the promotion and extension of social welfare and security, and of public health, freedom, justice and democracy.

Article XXIV. Every person shall have the right to receive an equal education corresponding to his ability, as provided by law.

Every person shall be obligated to insure that all of the children under his protection receive elementary education. Such education shall be free.

Article XXV. All persons have the right to work. Standards for working conditions, wages and hours shall be fixed by law. The exploitation of children shall be prohibited.

Article XXVI. The right of workers to organize and to bargain and act collectively is guaranteed.

Article XXVII. The right to own property is inviolable, but property rights shall be defined by law, in conformity with the public welfare. Private property may be taken for public use upon just compensation therefor.

Article XXVIII. No person shall be apprehended except upon warrant issued by a competent judicial officer which specifies the offense with which the person is charged, unless he is apprehended while committing a crime.

Article XXIX. No person shall be arrested or detained without being at once informed of the charges against him or without the immediate privilege of counsel; he shall not be detained without adequate cause; and upon demand of any person such cause must be immediately shown in open court in his presence and the presence of his counsel.

Article XXX. No person shall be deprived of life or liberty, nor shall any criminal penalty be imposed, except according to procedure established by

the Diet, nor shall any person be denied the right of access to the courts.

Article XXXI. The right of the people to be secure in their persons, homes, papers and effects against entries, searches and seizures shall not be impaired except upon warrant issued only for probable cause, and particularly describing the place to be searched and the person or things to be seized.

Each search or seizure shall be made upon separate warrant issued for the purpose by a competent judicial officer.

Article XXXII. The infliction of torture by any public officer and cruel punishments are absolutely forbidden.

Article XXXIII. In all criminal cases the accused shall enjoy the right to a speedy and public trial by an impartial tribunal.

He shall be permitted full opportunity to examine all witnesses, and he shall have the right of compulsory process for obtaining witnesses on his behalf at public expense.

At all times the accused shall have the assistance of competent counsel who shall, if the accused be unable to secure the same by his own efforts, be assigned to his use by the government. No person shall be placed in double jeopardy for the same crime.

Article XXXIV. No person shall be compelled to testify against himself.

No confession shall be admitted in evidence if made under compulsion, torture or threat, or after prolonged arrest or detention.

No person shall be convicted or punished in cases where the only proof against him is his own confession.

Article XXXV. No person shall be held criminally liable for an act which was lawful at the time it was committed, or of which he has been acquitted.

CHAPTER 4

THE DIET

Article XXXVI. The Diet shall be the highest organ of state power, and shall be the sole law-making authority of the State.

Article XXXVII. The Diet shall consist of two houses, namely the House of Representatives and the House of Councillors.

Article XXXVIII. Both Houses shall consist of elected members, representatives of all the people.

The number of the members of each House shall be fixed by law.

Article XXXIX. The qualifications of electors and members for both Houses shall be fixed by law. However, there shall be no discrimination because of sex, race, religion, or social status.

Article XL. The term of office of members of the House of Representatives shall be 4 years. However, the term may be terminated before the full term is up, by dissolution of the House of Representatives.

Article XLI. Matters pertaining to the method of election of members of both Houses, electoral districts, and method of voting, shall be fixed by law.

Article XLII. The term of office of the members of the House of Councillors shall be six years, except for half the members serving in the first term. Election for half the members shall take place every three years.

Article XLIII. No person shall be permitted to be a member of both Houses simultaneously.

Article XLIV. Members of both Houses shall receive appropriate annual payment from the national treasury in accordance with the law.

Article XLV. Except in cases provided by law, members of both Houses shall be exempt from arrest while the Diet is in session. Any member arrested

before the opening of the session shall be freed during the term of the session upon demand of his House.

Article XLVI. Members of both Houses shall not be held liable outside the House for speeches, debates, or votes cast inside the House.

Article XLVII. The Diet shall be convoked at least once per year.

Article XLVIII. The Cabinet may call extraordinary sessions of the Diet. When a quarter or more of the total members of either House makes the demand, the Diet must be called into session.

Article XLIX. When the House of Representatives is ordered dissolved, there must be a general election of members of the House of Representatives within forty (40) days from the date of dissolution, and the Diet must be convoked within thirty (30) days from the date of the election. When the House of Representatives is ordered dissolved, the House of Counsillors must, at the same time, be closed.

Article L. Each House shall judge disputes related to qualifications and elections of its members.

In order to deny a seat to anyone certified to have been elected, it is necessary to pass a resolution by a majority of two-thirds or more of the members present.

Article LI. Business cannot be transacted in either House unless at least one-third of the total membership is present.

All matters shall be decided, in each House, by a majority of those present, except as elsewhere provided in the Constitution. In case of a tie, the presiding officer shall decide the issue.

Article LII. Deliberation in each House shall be public. No secret meetings shall be held.

Each House shall keep a record of proceedings. This record shall be

published and distributed to the public.

Upon demand of one-fifth or more of the members present, votes of the members on any matter shall be recorded in the minutes.

Article LIII. Each House shall select its own president and other officials.

Each House shall establish its rules and regulations pertaining to meetings and proceedings, and may punish members for disorderly conduct. However, in order to expel a member, a majority of two-thirds or more of those members present must pass a resolution thereon.

Article LIV. A bill becomes a law on passage by both Houses, except as otherwise provided by this Constitution.

A bill which is passed by the House of Representatives, and rejected by the House of Councillors, becomes a law when passed a second time by the House of Representatives by a majority of two-thirds or more of the members present.

Failure by the House of Councillors to take final action within sixty (60) days after receipt of a bill passed by the House of Representatives, time in recess excepted, may be determined by the House of Representatives to constitute a rejection.

Article LV. The budget must first be submitted to the House of Representatives.

Upon consideration of the budget, when the House of Councillors makes a decision different from that of the House of Representatives, and when a joint committee of both Houses, provided for by law, cannot come to an agreement, the decision of the House of Representatives will be considered the decision of the Diet.

Article LVI. The second paragraph of the preceding article applies also to Diet approval required for the conclusion of treaties, and international conventions and agreements.

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Article LVII. Each House may conduct investigations in relation to national affairs, and may compel the presence and testimony of witnesses, and the production of records. In such cases, each House can punish, in accordance with law, those who do not comply with the demands.

Article LVIII. The Prime Minister, and the Ministers of State, may, at any time, appear in either House for the purpose of debating on bills, regardless of whether they are members of the House or not. They must appear when their presence is required in order to give answers or explanations.

Article LVIX. The Diet shall set up an impeachment court from the members of both Houses for the purpose of trying those judges against whom removal proceedings have been instituted.

Matters relating to impeachment shall be provided by law.

Article LX. The House of Representatives shall sit as the National Diet immediately upon the effective date of this Constitution and until such time as the House of Counsillors shall regularly be constituted.

CHAPTER 5

THE CABINET

Article LXI. Executive power shall be vested in the Cabinet.

Article LXII. The Cabinet shall consist of the Prime Minister, who shall be its head, and other Ministers of State as provided for by law.

The Cabinet, in the exercise of executive power, shall be collectively responsible to the Diet.

Article LXIII. The Prime Minister shall be designated by a resolution of the Diet. This designation shall precede all other business.

If the House of Representatives and the House of Counsillors disagree

and if a joint committee of both houses, provided for by law, cannot reach an agreement, the decision of the House of Representatives shall be the decision of the Diet.

Article LXIV. The Prime Minister shall, with the approval of the Diet, designate the Ministers of State. The second paragraph of the preceding article shall apply to this approval.

The Prime Minister may decide on the removal of Ministers of State as he chooses.

Article LXV. If the House of Representatives passes a no-confidence resolution, or fails to pass a confidence resolution, the Cabinet shall resign en masse, unless it dissolves the House of Representatives within ten days.

Article LXVI. When there is a vacancy in the post of Prime Minister, or upon the convocation of the Diet after a general election, the Cabinet shall resign en masse.

Article LXVII. In the cases mentioned in the two preceding articles, the Cabinet shall continue its functions until the time when a new Prime Minister is appointed.

Article LXVIII. The Prime Minister, representing the Cabinet, submits bills, reports on general national affairs and foreign relations to the Diet, and exercises supervision and control over various administrative branches.

Article LXIX. The Cabinet, in addition to other general administrative functions, shall:

Administer the law faithfully; conduct affairs of State.

Manage foreign affairs.

Conclude treaties, international conventions and agreements. However, it shall obtain prior or, depending on circumstances, subsequent approval of the Diet.

In accordance with standards established by the Diet, administer the civil service.

Prepare the budget, and present it to the Diet.

Enact and promulgate orders and regulations in order to carry out the provisions of this Constitution and of the law. However, it cannot include penal provisions in such orders and regulations unless authorized by such law.

Decide on general amnesty, special amnesty, commutation of punishment, reprieve, and restoration of rights.

Article LXX. All laws and orders shall be signed by the competent Minister of State, and countersigned by the Prime Minister.

Article LXXI. The Ministers of State, during their tenure of office, shall not be subject to legal action without the consent of the Prime Minister, but the right to take that action is not impaired hereby.

CHAPTER 6

JUDICIARY

Article LXXII. The whole judicial power is vested in a Supreme Court and in such inferior courts as the Diet shall establish.

No extraordinary tribunal shall be established, nor shall any organ or agency of the Executive be given final judicial power.

All judges shall be independent in the exercise of their conscience and shall be bound only by this Constitution and the laws enacted pursuant thereto.

Article LXXIII. The Supreme Court is vested with the rule-making power under which it determines the rules of procedure and of practice, and of matters relating to attorneys, the internal discipline of the courts the administration of judicial affairs, and such other matters as may properly affect the free exercise of the judicial power.

Public procurators shall be subject to the rule-making power of the Supreme Court.

The Supreme Court may delag,te the power to make rules for inferior courts to such courts.

Article LXXIV. Removals of judges shall be accomplished by public impeachment only unless judicially declared mentally or physically incompetent. No disciplinary action shall be administered by any executive organ or agency.

Article LXXV. The Supreme Court shall consist of such number of judges as may be determined by law; all such judges shall be appointed by the Cabinet and shall be retired upon the attainment of the age of 70 years.

The appointment of the judges of the Supreme Court shall be reviewed by the people at the first general election of the House of Representatives following their appointment, and shall be reviewed again at the first general election of the House of Representatives after a lapse of ten years, and in the same manner thereafter.

In cases mentioned in the foregoing paragraph, when the majority of the voters show that they favor the dismissal of a judge concerned, he shall be dismissed.

Matters pertaining to the review mentioned in the foregoing paragraphs shall be prescribed by law.

All such judges shall receive, at regular, stated intervals, adequate compensation which shall not be decreased during their term of office.

Article LXXVI. The judges of the inferior courts shall be appointed by the Cabinet from a list of persons nominated by the Supreme Court. All such judges shall hold office for a term of ten years with privilege of reappointment and shall receive, at regular, stated intervals, adequate compensation which shall not be decreased during their terms of office. No judge

shall hold office after attaining the age of 70 years.

Article LXVII. The Supreme Court is the court of last resort with power to determine the constitutionality of any law, order, regulation or official act.

Article LXVIII. Trials shall be conducted and judgment declared publicly. Where, however, a court unanimously determines publicity to be dangerous to public order or morals, a trial may be conducted privately, but trials of political offenses, offenses involving the press, and cases wherein the rights of the people as reserved in Chapter 3 of this Constitution are in question, shall be conducted publicly without exception.

CHAPTER 7

FINANCE

Article LXIX. The power to administer national finances shall be exercised as the Diet shall determine.

Article LXX. No new taxes shall be imposed or existing ones modified except by action of the Diet or under such conditions as the Diet may prescribe.

All taxes in effect at the time this Constitution is promulgated shall continue to be collected under existing regulations until changed or modified by the Diet.

Article LXXI. No money shall be expended, nor shall the State obligate itself, except as authorized by the Diet.

Article LXXII. The Cabinet shall prepare and submit to the Diet for its consideration and decision an annual budget for each fiscal year.

Article LXXIII. In order to provide for unforeseen deficiencies in the budget a reserve fund may be authorized to be expended upon the responsibility of the Cabinet.

The Cabinet shall be held accountable to the Diet for all payments from the reserve fund.

Article LXXXIV. All property of the Imperial Household, other than the hereditary estates, shall belong to the State. The income from all Imperial properties shall be paid into the national treasury, and allowances and expenses of the Imperial Household, as defined by law, shall be appropriated by the Diet in the annual budget.

Article LXXXV. No public money or property shall be appropriated for the use, benefit or support of any system of religion, or religious institution or association, or for any charitable, educational or benevolent purposes not under the control of the State.

Article LXXXVI. A final audit of all expenditures and revenues of the State shall be made annually by a board of audit and submitted by the Cabinet to the Diet during the fiscal year immediately following the period covered.

The organization and competency of the board of audit shall be determined by the Diet.

Article LXXXVII. At regular intervals and at least annually the Cabinet shall report to the Diet and the people on the state of national finances.

CHAPTER 8

LOCAL SELF GOVERNMENT

Article LXXXVIII. Regulations concerning organization and operations of local public entities shall be fixed by law in accordance with the principle of local autonomy.

Article LXXXIX. The local public entities shall establish assemblies as their deliberative organs, in accordance with law.

The chief executive officers of all local public entities, the members of their legislative assemblies, and such other local officials as may be deter-

mined by law shall be elected by direct popular vote within their several communities.

Article XC. Local public entities shall have the right to manage their property, affairs and government and to frame their own charters within such laws as the Diet may enact.

Article XCI. A special law, applicable only to one local public entity, cannot be enacted by the Diet without the consent of the majority of the voters of the local public entity concerned, obtained in accordance with law.

CHAPTER 9

AMENDMENTS

Article XCII. Amendments to this Constitution shall be initiated by the Diet, through a concurring vote of two-thirds of all the members of each House and shall thereupon be submitted to the people for ratification, which shall require the affirmative vote of a majority of all votes cast thereon at such election as the Diet shall specify.

Amendments when so ratified shall immediately be proclaimed by the Emperor, in the name of the People, as an integral part of this Constitution.

CHAPTER 10

SUPREME LAW

Article XCIII. This Constitution and the laws and treaties made in pursuance hereof shall be the supreme law of the state and no public law or ordinance and no imperial rescript or other act of government, or part thereof, contrary to the provisions hereof, shall have legal force or validity.

Article XCIV. The fundamental human rights by this Constitution guaranteed to the people of Japan result from the age-old struggle of man

to be free. They have survived the cmsting test for durability in the crucible of time and experience, and are conferred upon this and future generations in sacred trust, to be held for all time inviolate.

The Emperor or the Regent, the Ministers of State, the members of the Diet, judges, and all other public officials have the obligation to respect and uphold this Constitution.

CHAPTER 11

SUPPLEMENTARY PROVISIONS

Article XCV. The Ministers of State, members of the Diet, judges and all other public officials in office at the time of the enactment of this Constitution, shall remain at their posts in accordance with existing provisions of law regardless of the provisions of this Constitution, until their successors are elected or appointed.

C. 9c

Final Draft

of

Japanese Constitution

Final Draft of Japanese Constitution

We, the Japanese people, acting through our duly elected representatives in the National Diet, determined that we shall secure for ourselves and our posterity the fruits of peaceful cooperation with all nations and the blessings of liberty throughout this land, and resolved that never again shall we be visited with the horrors of war through the action of government, do proclaim the sovereignty of the people's will and do ordain and establish this Constitution, founded upon the universal principle that government is a sacred trust the authority for which is derived from the people, the powers of which are exercised by the representatives of the people, and the benefits of which are enjoyed by the people; and we reject and revoke all constitutions, law, ordinances, and rescripts in conflict herewith.

Desiring peace for all time and fully conscious of the high ideals controlling human relationship now stirring mankind, we have determined to rely for our security and survival upon the justice and good faith of the peace-loving peoples of the world. We desire to occupy an honored place in an international society designed and dedicated to the preservation of peace, and the banishment of tyranny and slavery, oppression and intolerance for all time from the earth. We recognize and acknowledge that all peoples have the right to live in peace, free from fear and want.

We hold that no people is responsible to itself alone, but that laws of political morality are universal; and that obedience to such laws is incumbent upon all peoples who would sustain their own sovereignty and justify their sovereign relationship with other peoples.

To these high principles and purposes we, the Japanese people, pledge our national honor, determined will and full resources.

CHAPTER 1
THE EMPEROR

Article I. The Emperor shall be the symbol of the state and of the unity of the people, deriving his position from the sovereign will of the people.

Article II. The Imperial Throne shall be dynastic and succeeded to in accordance with the Imperial House Law passed by the Diet.

Article III. The advice and approval of the Cabinet shall be required for all acts of the Emperor in matters of state, and the Cabinet shall be responsible therefor.

Article IV. The Emperor shall perform only such state functions as are provided for in this constitu-

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tion. Never shall he have powers related to government.

The Emperor may delegate his functions as may be provided by law.

Article V. When, in accordance with the Imperial House Law, a regency is established, the Regent shall exercise his functions in the Emperor's name. In this case, paragraph one of the preceding article will be applicable.

Article VI. The Emperor shall appoint the Prime Minister as designated by the Diet.

Article VII. The Emperor, with the advice and approval of the Cabinet, shall perform the following functions of state on behalf of the people:

Promulgation of amendments of the constitution, laws, cabinet orders and treaties.

Convocation of the Diet.

Dissolution of the House of Representatives.

Proclamation of General Election.

Attestation of the appointment and dismissal of Ministers of State and other officials as provided for by law, and of full powers and credentials of Ambassadors and Ministers.

Attestation of general and special amnesty, commutation of punishment, reprieve, and restoration of rights.

Awarding of honors.

Attestation of instruments of ratification and other diplomatic documents as provided for by law.

Receiving foreign ambassadors and ministers.

Performance of ceremonial functions.

Article VIII. No property can be given to, or received by, the Imperial House, and no gifts can be made thereby, without the authorization of the Diet.

CHAPTER 2

RENUNCIATION OF WAR

Article IX. War, as a sovereign right of the nation, and the threat or use of force, is forever renounced as a means of settling disputes with other nations.

The maintenance of land, sea, and air forces, as well as other war potential, will never be authorized. The right of belligerency of the state will not be recognized.

CHAPTER 3

RIGHTS AND DUTIES OF THE PEOPLE

Article X. The people shall not be prevented from enjoying any of the fundamental human rights. These fundamental human rights guaranteed to the people by this constitution shall be conferred upon the people of this and future generations as eternal and inviolate rights.

Article XI. The enjoyment of the freedoms and rights guaranteed to the people by this constitution shall be maintained by the eternal vigilance of the people, and the people shall refrain from any abuse of these freedoms and rights and shall always be responsible for utilizing them for the public welfare.

Article XII. All of the people

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shall be respected as individuals, and their right to life, liberty, and the pursuit of happiness shall, within the limits of the public welfare, be the supreme consideration in legislation and in governmental affairs.

Article XIII. All of the people are equal under the law and there shall be no discrimination in political, economic, or social relations because of race, creed, sex, social status, or family origin. No peerage shall be granted. No privilege shall accompany any award of honor, decoration or any distinction, nor shall any such award be valid beyond the lifetime of the individual who now holds or hereafter may receive it.

Article XIV. The people have the inalienable right to choose their public officials and to dismiss them.

All public officials are servants of the whole community and not of any special group.

In all elections, secrecy of the ballot shall be preserved inviolate, nor shall any voter be answerable, publicly or privately, for the choice he has made.

Article XV. Every person has the right of peaceful petition for the redress of damage and other matters, for the removal of public officials and for the enactment, repeal or amendment of laws, ordinances or regulations; nor shall any person be in any way discriminated against for sponsoring such a petition.

Article XVI. No person shall be held in bondage of any kind. Involuntary servitude, except as punishment for crime, is prohibited.

Article XVII. Freedom of thought and conscience shall be held inviolable.

Article XVIII. Freedom of religion is guaranteed to all. No religious organization shall receive any privileges from the State, nor exercise any political authority.

No person shall be compelled to take part in any religious act, celebration, rite or practice.

The State and its organs shall refrain from religious education or any other religious activity.

Article XIX. Freedom of assembly, association, speech, and press and all other forms of expression are guaranteed. No censorship shall be maintained, nor shall the secrecy of any means of communication be violated.

Article XX. Every person shall have freedom to choose and change his residence and to choose his occupation to the extent that it does not interfere with the public welfare.

Freedom of all persons to move to a foreign country and to divest themselves of their nationality shall be inviolate.

Article XXI. Academic freedom is guaranteed.

Article XXII. Marriage shall be based only on the mutual consent of both sexes and it shall be maintained through mutual cooperation with the equal rights of husband and wife as a basis. Laws shall be enacted considering choice of

spouse, property rights, inheritance, choice of domicile, divorce and other matters pertaining to marriage and the family from the standpoint of individual dignity and the essential equality of the sexes.

Article XXIII. In all spheres of life; laws shall be designed for the promotion and extension of social welfare and security, and of public health.

Article XXIV. All people shall have the right to receive an equal education correspondent to his ability, as provided by law.

All people shall be obligated to insure that all of the children under his protection receive elementary education. Such education shall be free.

Article XXV. All people have the right to work. Standards for working conditions, wages and hours shall be fixed by law. The exploitation of children shall be prohibited.

Article XXVI. The right of workers to organize and to bargain and act collectively is guaranteed.

Article XXVII. The right to own property is inviolable, but property rights shall be defined by law, in conformity with the public welfare. Private property may be taken for public use upon just compensation therefor.

Article XXVIII. No person shall be deprived of life or liberty, nor shall any other criminal penalty be imposed, except according to procedure established by law.

Article XXIX. No person shall be denied the right of access to the courts.

Article XXX. No person shall be apprehended except upon warrant issued by a competent judicial officer which specifies the offense with which the person is charged, unless he is apprehended while committing a crime.

Article XXXI. No person shall be arrested or detained without being at once informed of the charges against him or without the immediate privilege of counsel; he shall not be detained without adequate cause; and upon demand of any person such cause must be immediately shown in open court in his presence and the presence of his counsel.

Article XXXII. The right of the people to be secure in their homes, papers and effects against entries, searches and seizures shall not be impaired except upon warrant issued only for probable cause, and particularly describing the place to be searched and things to be seized, or except as provided by Article XXX.

Each search or seizure shall be made upon separate warrant issued for the purpose by a competent judicial officer.

Article XXXIII. The infliction of torture by any public officer and cruel punishments are absolutely forbidden.

Article XXXIV. In all criminal cases the accused shall enjoy the right to a speedy and public trial by an impartial tribunal.

He shall be permitted full opportunity to examine all witnesses, and he shall have the right of compul-

sory process for obtaining witnesses on his behalf at public expense.

At all times the accused shall have the assistance of competent counsel who shall, if the accused be unable to secure the same by his own efforts, be assigned to his use by the government.

Article XXXV. No person shall be compelled to testify against himself.

No confession shall be admitted in evidence if made under compulsion, torture or threat, or after prolonged arrest or detention.

No person shall be convicted or punished in cases where the only proof against him is his own confession.

Article XXXVI. No person shall be held criminally liable for an act which was lawful at the time it was committed, or of which he has been acquitted, nor shall he. in any way, be placed in double jeopardy.

CHAPTER 4

THE DIET

Article XXXVII. The Diet shall be the highest organ of state power, and shall be the sole law-making authority of the State.

Article XXXVIII. The Diet shall consist of two houses, namely the House of Representatives and the House of Councillors.

Article XXXIX. Both Houses shall consist of elected members, representative of all the people.

The number of the members of each House shall be fixed by law.

Article XL. The qualifications of electors and members for both Houses shall be fixed by law. However, there shall be no discrimination because of race, creed, sex, social status or family origin.

Article XLI. The term of office of members of the House of Representatives shall be 4 years. However, the term may be terminated before the full term is up. by dissolution of the House of Representatives.

Article XLII. The term of office of the members of the House of Councillors shall be six years. Election for half the members shall take place every three years.

Article XLIII. Matters pertaining to the method of election of members of both Houses, electoral districts, and method of voting shall be fixed by law.

Article XLIV. No person shall be permitted to be a member of both Houses simultaneously.

Article XLV. Members of both Houses shall receive appropriate annual payment from the national treasury in accordance with the law.

Article XLVI. Except in cases provided by law, members of both Houses shall be exempt from arrest while the Diet is in session. Any members arrested before the opening of the session shall be freed during the term of the session upon demand of the House.

Article XLVII. Members of both Houses shall not be held liable outside the House for speeches, debates, or votes cast inside the House.

Article XLVIII. An ordinary session of the Diet shall be convoked once per year.

Article XLIX. The Cabinet may

call extraordinary sessions of the Diet. When a quarter or more of the total members of either house makes the demand, the Diet must be called into session.

Article L. When the House of Representatives is ordered dissolved, there must be a general election of members of the House of Representatives within forty (40) days from the date of dissolution, and the Diet must be convoked within thirty (30) days from the date of the election. When the House of Representatives is ordered dissolved, the House of Councillors must, at the same time, be closed, except that the Cabinet may in time of national emergency convoke the House of Councillors in emergency session.

Measures enacted at such session shall be provisional and shall become null and void unless agreed to by the House of Representatives within a period of ten (10) days after the opening of the next session of the Diet.

Article LI. Each House shall judge disputes related to qualifications and elections of its members. However, in order to deny a seat to any member, it is necessary to pass a resolution by a majority of two-thirds or more of the members present.

Article LII. Business cannot be transacted in either House unless at least one-third of the total membership is present.

All matters shall be decided, in each House, by a majority of those present, except as elsewhere provided in the Constitution. In case of a tie, the presiding officer shall decide the issue.

Article LIII. Deliberation in each House shall be public. However, a secret meeting may be held where a majority of two-thirds or more of those members present passes a resolution therefor.

Each House shall keep a record of proceedings. This record shall be published and given general circulation, excepting such parts of proceedings of secret session as may be deemed to require secrecy.

Upon demand of one-fifth or more of the members present, votes of the members on any matter shall be present, votes of the members be recorded in the minutes.

Article LIV. Each House shall select its own president and other officials.

Each House shall establish its rules pertaining to meetings and proceedings and internal discipline may punish members for disorderly conduct. However, in order to expel a member, a majority of two-thirds or more of those members present must pass a resolution thereon.

Article LV. A bill becomes a law on passage by both Houses, except as otherwise provided by this Constitution.

A bill which is passed by the House of Representatives, and upon which the House of Councillors makes a decision different from that of the House of Representatives, becomes a law when passed a second time by the House of Representatives by a majority of two-thirds or

more of the members present.

Failure by the House of Councillors to take final action within sixty (60) days after receipt of a bill passed by the House of Representatives, time in recess excepted, may be determined by the House of Representatives to constitute a rejection.

Article LVI. The budget must first be submitted to the House of Representatives.

Upon consideration of the budget, when the House of Councillors makes a decision different from that of the House of Representatives, and when a joint committee of both Houses, provided for by law, cannot come to an agreement, or in the case of failure by the House of Councillors to take final action within forty (40) days, the period of recess excluded, after the receipt of the budget passed by the House of Representatives, the decision of the House of Representatives will be considered the decision of the Diet.

Article LVII. The second paragraph of the preceding article applies also to the Diet approval required for the conclusion of treaties.

Article LVIII. Each House may conduct investigations in relation to national affairs, and may compel the presence and testimony of witnesses, and the production of records.

Article LIX. The Prime Minister, and the Ministers of State, may at any time, appear in either House for the purpose of debating on bills, regardless of whether they are members of the House or not. They must appear when their presence is required in order to give answers or explanations.

Article LX. The Diet shall set up an impeachment court from the members of both Houses for the purpose of trying those judges against whom removal proceedings have been instituted.

Matters relating to impeachment shall be provided by law.

CHAPTER 5

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Article IXI. Executive power shall be vested in the Cabinet.

Article LXII. The Cabinet shall consist of the Prime Minister, who shall be its head, and other Ministers of State as provided for by law.

The Cabinet, in the exercise of executive power, shall be collectively responsible to the Diet.

Article LXIII. The Prime Minister shall be designated by a resolution of the Diet. This designation shall precede all other business.

If the House of Representatives and the House of Councillors disagree and if a joint committee of both houses, provided for by law, cannot reach an agreement, or the House of Councillors fails to make designation within twenty (20) days, exclusive of the period of recess, after the House of Representatives has made designation, the decision of the House of Representatives shall be the decision of the Diet.

Article LXIV. The Prime Minister shall with the approval of the Diet, appoint the Ministers of State. The second paragraph of the preceding article shall apply to this

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The Prime Minister may remove the Ministers of State as he chooses.

Article LXV. If the House of Representatives passes a non-confidence resolution, or rejects a confidence resolution, the Cabinet shall resign en masse, unless the House of Representatives is dissolved within ten days.

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Article LXVIII. The Prime Minister representing the Cabinet, submits bills, reports on general national affairs and foreign relations to the Diet and exercises supervision and control over various administrative branches.

Article LXIX. The Cabinet, in addition to other general administrative functions shall:

Administer the law faithfully; conduct affairs of State.

Manage foreign affairs.

Conclude treaties. However, it shall obtain prior or, depending on circumstances, subsequent approval of the Diet.

In accordance with standards established by law, administer the civil service.

Prepare the budget, and present it to the Diet.

Enact cabinet orders in order to carry out the provisions of this Constitution and of the law. However, it cannot include penal provisions in such cabinet orders unless authorized by such law.

Decide on general amnesty, special amnesty, commutation of punishment, reprieve, and restoration of rights.

Article LXX. All laws and cabinet orders shall be signed by the competent Minister of State and countersigned by the Prime Minister.

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All judges shall be independent in the exercise of their conscience and shall be bound only by this Constitution and the laws enacted pursuant thereto.

Article LXXIII. The Supreme Court is vested with the rule-making power under which it determines the rules of procedure and of practice, and of matters relating to attorneys, the internal discipline of the courts and the administration of judicial affairs.

Public procurators shall be sub-

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ject to the rule-making power of the Supreme Court.

The Supreme Court may delegate the power to make rules for inferior courts to such courts.

Article LXXIV. Removals of judges shall be accomplished by public impeachment only unless judicially declared mentally or physically imcompetent. No disciplinary action shall be administered by any executive organ or agency.

Article LXXV. The Supreme Court shall consist of such number of judges as may be determined by law; all such judges shall be appointed by the Cabinet and shall be retired upon the attainment of the age as fixed by law.

The appointment of the judges of the Supreme Court shall be reviewed by the people at the first general election of the House of Representatives following their appointment, and shall be reviewed again at the first general election of the House of Representatives after a lapse of ten years, and in the same manner thereafter.

In cases mentioned in the foregoing paragraph, when the majority of the voters show that they favor the dismissal of a judge concerned, he shall be dismissed.

Matters pertaining to the review mentioned in the foregoing paragraphs shall be prescribed by law.

All such judges shall receive, at regular, stated intervals, adequate compensation which shall not be decreased during their terms of office.

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Article LXXXII. The Cabinet shall prepare and submit to the Diet for its consideration and decision an annual budget for each fiscal year.

Article LXXXIII. In order to provide for unforeseen deficiencies in the budget a reserve fund may be authorized by the Diet to be expended upon the responsibility of the Cabinet.

The Cabinet shall be held accountable to the Diet for all payments from the reserve fund.

Article LXXXIV. All property of the Imperial Household, other than the hereditary estates, shall belong to the State. The income from all Imperial properties shall be paid into the national treasury, and allowances and expenses of the Imperial Household, as defined by law, shall be appropriated by the Diet in the annual budget.

Article LXXXV. No public money or property shall be appropriated for the use, benefit or support of any system of religion, or religious institution or association, or for any charitable, educational or benevolent purposes not under the control of Public authority.

Article LXXXVI. A final audit of all expenditures and revenues of the State shall be made annually by a board of audit and submitted by the Cabinet to the Diet during the fiscal year immediately following the period covered.

The organization and competency of the board of audit shall be determined by law.

Article LXXXVII. At regular intervals and at least annually the Cabinet shall report to the Diet and the people on the state of national finances.

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Article LXXXIX. The local public entities shall establish assemblies as their deliberative organs, in accordance with law.

The chief executive officers of all local public entities, the members of their legislative assemblies, and such other local officials as may be determined by law shall be elected by direct popular vote within their several communities.

Article XC. Local public entities shall have the right to manage their property, affairs and government and to frame their own charters within such laws as the Diet may enact.

Article XCI. A special law, applicable only to one local public entity, cannot be enacted by the Diet without the consent of the majority of the voters of the local public entity concerned, obtained in accordance with law.

CHAPTER 9

AMENDMENTS

Article XCII. Amendments to this Constitution shall be initiated by the Diet, through a concurring vote of two-thirds of all the members of each House and shall thereupon be submitted to the people for ratification, which shall require the affirmative vote of a majortiy of all votes cast at a special referendum thereon. or at such election as the Diet shall specify.

Amendments when so ratified shall immediately be proclaimed by the Emperor in the name of the People, as an integral part of this Constitution.

CHAPTER 10

SUPREME LAW

Article XCIII. The fundamental human rights by this Constitution guaranteed to the people of Japan result from the age-old struggle of man to be free. They have survived the exacting test for durability in the crucible of time and experience, and are conferred upon this and future generations in sacred trust, to be held for all time inviolate.

Article XCIV. This Constitution and the laws and treaties made in pursuance hereof shall be the supreme law of the state and no public law or ordinance and no imperial rescript or other act of government, or part thereof, contrary to the provisions hereof, shall have legal force or validity.

Article XCV. The Emperor or the Regent, the Ministers of State, the members of the Diet judges, and all other public officials have the obligation to respect and uphold this Constitution.

CHAPTER 11

SUPPLEMENTARY PROVISIONS

Article XCVI. This Constitution shall be enforced as from the day when the period of six months will have elapsed counting from the day of its promulgation.

The enactment of laws necessary for the enforcement of this Constitution, the election of members of the House of Councillors and the procedure for the convocation of the Diet and other preparatory procedures necessary for the enforcement of this Constitution may be executed before the day prescribed in the preceding paragraph.

Article XCVII. As regards those who hold peerage on the effective date of this Constitution, their title shall remain valid for their lives, but no right of peerage shall from this time forth embody within itself any power of government.

Article XCVIII. If the house of Councillors is not constituted before the effective date of this Constitution, the House of Representatives shall sit as the Diet on that date and until such time as the House of Councillors shall be constituted.

Article XCIX. The term of office for half the members of the House of Councillors serving in the first term under this Constitution shall be three years. Members falling under this category shall be determined in accordance with law.

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Article C. The Ministers of State members of the House of Representatives and judges in office on the effective date of this Constitution, and all other public officials who occupy positions corresponding to such positions as are recognized by this Constitution shall not forfeit their positions automatically on the effective date of this Constitution unless otherwise specified by law. When, however, successors are elected or appointed under the provisions of this Constitution they shall forfeit their positions as a matter of course.

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We, the Japanese people, acting through our duly elected representatives in the National Diet, determined that we shall secure for ourselves and our posterity the fruits of peaceful cooperation with all nations and the blessings of liberty throughout this land, and resolved that never again shall we be visited with the horrors of war through the action of government, do proclaim the sovereignty of the people's will and do ordain and establish this Constitution, founded upon the universal principle that government is a sacred trust, the authority for which is derived from the people, the powers of which are exercised by the representatives of the people, and the benefits of which are enjoyed by the people; and we reject and revoke all constitutions, laws, ordinances, and rescripts in conflict herewith.

Desiring peace for all time and fully conscious of the high ideals controlling human relationship now stirring mankind, we have determined to rely for our security and survival upon the justice and good faith of the peace-loving peoples of the world. We desire to occupy an honored place in an international society designed and dedicated to the preservation of peace, and the banishment of tyranny and slavery, oppression and intolerance for all time from the earth. We recognize and acknowledge that all peoples have the right to live in peace, free from fear and want.

We hold that no people is responsible to itself alone, but that laws of political morality are universal; and that obedience to such laws is incumbent upon all peoples who would sustain their own sovereignty and justify their sovereign relationship with other peoples.

To these high principles and purposes we, the Japanese people, pledge our national honor, determined will and full resources.

CHAPTER 1
THE EMPEROR

Article I. The Emperor shall be the symbol of the state and of the unity of the people, deriving his position from the sovereign will of the people.

Article II. The Imperial Throne shall be dynastic and succeeded to in accordance with the Imperial House Law passed by the Diet.

Article III. The advice and approval of the Cabinet shall be required for all acts of the Emperor in matters of state, and the Cabinet shall be responsible therefor.

Article IV. The Emperor shall

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perform only such state functions as are provided for in this Constitution. Never shall he have powers related to government.

The Emperor may delegate his functions as may be provided by law.

Article V. When, in accordance with the Imperial House Law, a regency is established, the Regent shall exercise his functions in the Emperor's name. In this case, paragraph one of the preceding article will be applicable.

Article VI. The Emperor shall appoint the Prime Minister as designated by the Diet.

Article VII. The Emperor, with the advice and approval of the Cabinet, shall perform the following functions of state on behalf of the people:

Promulgation of amendments of the constitution, laws, cabinet orders and treaties.

Convocation of the Diet.

Dissolution of the House of Representatives.

Proclamation of General Election.

Attestation of the appointment and dismissal of Ministers of State and other officials as provided for by law, and of full powers and credentials of Ambassadors and Ministers.

Attestation of general and special amnesty, commutation of punishment, reprieve, and restoration of rights.

Awarding of honors.

Attestation of instruments of ratification and other diplomatic documents as provided for by law.

Receiving foreign ambassadors and ministers.

Performance of ceremonial functions.

Article VIII. No property can be given to, or received by, the Imperial House, and no gifts can be made thereby, without the authorization of the Diet.

CHAPTER 2

RENUNCIATION OF WAR

Article IX. War, as a sovereign right of the nation, and the threat or use of force, is forever renounced as a means of settling disputes with other nations.

The maintenance of land, sea, and air forces, as well as other war potential, will never be authorized. The right of belligerency of the state will not be recognized.

CHAPTER 3

RIGHTS AND DUTIES OF THE PEOPLE

Article X The people shall not be prevented from enjoying any of the fundamental human rights. These fundamental human rights guaranteed to the people by this Constitution shall be conferred upon the people of this and future generations as eternal and inviolate rights.

Article XI. The enjoyment of the freedoms and rights guaranteed to the people by this Constitution shall be maintained by the eternal vigilance of the people, and the people shall refrain from any abuse of these freedoms and rights and shall always be responsible for utilizing them for the public welfare.

Article XII. All of the people shall

be respected as individuals, and their right to life, liberty, and the pursuit of happiness shall, within the limits of the public welfare, be the supreme consideration in legislation and in governmental affairs.

Article XIII. All of the people are equal under the law and there shall be no discrimination in political, economic, or social relations because of race, creed, sex, social status or family origin. No peerage shall be granted. No privilege shall accompany any award of honor, decoration or any distinction, nor shall any such award be valid beyond the lifetime of the individual who now holds or hereafter may receive it.

Article XIV. The people have the inalienable right to choose their public officials and to dismiss them.

All public officials are servants of the whole community and not of any special group.

In all elections, secrecy of the ballot shall be preserved inviolate, nor shall any voter be answerable, publicly or privately, for the choice he has made.

Article XV. Every person has the right of peaceful petition for the redress of damage, for the removal of public officials, for the enactment, repeal or amendment of laws, ordinances or regulations and for other matters; nor shall any person be in any way discriminated against for sponsoring such a petition.

Article XVI. No person shall be held in bondage of any kind. Involuntary servitude, except as punishment for crime, is prohibited.

Article XVII. Freedom of thought and conscience shall be held inviolable.

Article XVIII. Freedom of religion is guaranteed to all. No religious organization shall receive any privileges from the State, nor exercise any political authority.

No person shall be compelled to take part in any religious act, celebration, rite or practice.

The State and its organs shall refrain from religious education or any other religious activity.

Article XIX. Freedom of assembly, association, speech and press and all other forms of expression are guaranteed. No censorship shall be maintained, nor shall the secrecy of any means of communication be violated.

Article XX, Every person shall have freedom to choose and change his residence and to choose his occupation to the extent that it does not interfere with the public welfare.

Freedom of all persons to move to a foreign country and to divest themselves of their nationality shall be inviolate.

Article XXI. Academic fredom is guaranteed.

Article XXII. Marriage shall be based only on the mutual consent of both sexes and it shall be maintained through mutual cooperation with the equal rights of husband and wife as a basis. Laws shall be enacted considering choice of spouse, property rights, inheritance, choice of domicile, divorce and other matters pertaining to marriage and the family from the standpoint of individual dignity and the essential equality of the sexes.

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Article XXIII. In all spheres of life, laws shall be designed for the promotion and extension of social welfare and security, and of public health.

Article XXIV. All people shall have the right to receive an equal education correspondent to their ability, as provided by law.

All people shall be obligated to insure that all of the children under their protection receive elementary education. Such education shall be free.

Article XXV. All people have the right to work. Standards for working conditions, wages and hours shall be fixed by law. The exploitation of children shall be prohibited.

Article XXVI. The right of workers to organize and to bargain and act collectively is guaranteed.

Article XXVII. The right to own property is inviolable, but property rights shall be defined by law, in conformity with the public welfare. Private property may be taken for public use upon just compensation therefor.

Article XXVIII. No person shall be deprived of life or liberty, nor shall any other criminal penalty be imposed, except according to procedure established by law.

Article XXIX. No person shall be denied the right of access to the courts.

Article XXX. No person shall be apprehended except upon warrant issued by a competent judicial officer which specifies the offense with which the person is charged, unless he is apprehended while committing a crime.

Article XXXI. No person shall be arrested or detained without being at once informed of the charges against him or without the immediate privilege of counsel; nor shall he be detained without adequate cause; and upon demand of any person such cause must be immediately shown in open court in his presence and the presence of his counsel.

Article XXXII. The right of all persons to be secure in their homes, papers and effects against entries, searches and seizures shall not be impaired except upon warrant issued only for probable cause, and particularly describing the place to be seached and things to be seized, or except as provided by Article XXX.

Each search or seizure shall be made upon separate warrant issued for the purpose by a competent judicial officer.

Article XXXIII. The infliction of torture by any public officer and cruel punishments are absolutely forbidden.

Article XXXIV. In all criminal cases the accused shall enjoy the right to a speedy and public trial by an impartial tribunal.

He shall be permittel full opportunity to examine all witnesses, and he shall have the right of compulsory process for obtaining witnesses on his behalf at public expense.

At all times the accused shall have the assistance of competent counsel who shall, if the accused be unable to secure the same by his own efforts, be assigned to his use by the government.

Article XXXV. No person shall be compelled to testify against himself.

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No confession shall be admitted in evidence if made under compulsion, torture or threat, or after prolonged arrest or detention.

No person shall be convicted or punished in cases where the only proof against him is his own confession.

Article XXXVI. No person shall be held criminally liable for an act which was lawful at the time it was committed, or of which he has been acquitted nor shall he, in any way, be placed in double jeopardy.

CHAPTEI 4

THE DIET

Article XXXVII. The Diet shall be the highest organ of state power, and shall be the sole law-making authority of the State.

Article XXXVII. The Diet shall consist of two houses, namely the House of Representatives and the House of Councillors.

Article XXXIX. Both Houses shall consist of elected members, representative of all the people.

The number of the members of each House shall be fixed by law.

Article XL. The qualifications of electors and members for both Houses shall be fixed by law. However, there shall be no discrimination because of race, creed, sex, social status or family origin.

Article XLI. The term of office of members of the House of Representatives shall be four years. However, the term may be terminated before the full term is up by dissolution of the House of Representatives.

Article XLII. The term of office of the members of the House of Councillors shall be six years. Election for half the members shall take place every three years.

Article XLIII. Matters pertaining to the method of election of members of both Houses, electoral districts, and method of voting, shall be fixed by law.

Article XLIV. No person shall be permitted to be a member of both Houses simultaneously.

Article XLV. Members of both Houses shall receive appropriate annual payment from the national treasury in accordance with law.

Article XLVI. Except in cases provided by law, members of both Houses shall be exempt from arrest while the Diet is in session. Any members arrested before the opening of the session shall be freed during the term of the session upon demand of the House.

Article XLVII. Members of both Houses shall not be held liable outside the House for speeches, debates, or votes cast inside the House.

Article XLVIII. An ordinary session of the Diet shall be convoked once per year.

Article XLIX. The Cabinet may call extraordinary sessions of the Diet. When a quarter or more of the total members of either House makes the demand, the Diet must be called into session.

Article L. When the House of Representatives is ordered dissolved, there must be a general election of

members of the House of Representatives within forty (40) days from the date of dissolution, and the Diet must be convoked within thirty (30) days from the date of the election. When the House of Representatives is ordered dissolved, the House of Councillors must, at the same time, be closed, except that the Cabinet may in time of national emergency convoke the House of Councillors in emergency session.

Measures enacted at such session shall be provisional and shall become null and void unless agreed to by the House of Representatives within a period of ten (10) days after the opening of the next session of the Diet.

Article LI. Each House shall judge disputes related to qualifications and elections of its members. However, in order to deny a seat to any member, it is necessary to pass a resolution by a majority of two-thirds or more of the members present.

Article LII. Business cannot be transacted in either House unless at least one-third of the total membership is present.

All matters shall be decided, in each House, by a majority of those present, except as elsewhere provided in the Constitution. In case of a tie, the presiding officer shall decide the issue.

Article LIII. Deliberation in each House shall be public. However, a secret meeting may be held where a majority of two-thirds or more of those members present passes a resolution therefor.

Each House shall keep a record of proceedings. This record shall be published and given general circulation, excepting such parts of proceedings of secret session as may be deemed to require secrecy.

Upon demand of one-fifth or more of the members present, votes of the members on any matter shall be recorded in the minutes.

Article LIV. Each House shall select its own president and other officials.

Each House shall establish its rules pertaining to meetings, proceedings and internal discipline, and may punish members for disorderly conduct. However, in order to expel a member, a majority of two-thirds or more of those members present must pass a resolution thereon.

Article LV. A bill becomes a law on passage by both Houses, except as otherwise provided by the Constitution.

A bill which is passed by the House of Representatives, and upon which the House of Councillors makes a decision different from that of the House of Representatives, becomes a law when passed a second time by the House of Representatives by a majority of two-tihrds or more of the members present.

Failure by the House of Councillors to take final action within sixty (60) days after receipt of a bill passed by the House of Representatives, tiwe in recess excepted, may be determined by the House of Rrepresentatives to constitute a rejection.

Article LVI. The budget must first be submitted to the House of Representatives.

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Upon consideration of the budget, when the House of Councillors makes a decision different from that of the House of Representatives, and when a joint committee of both Houses, provided for by law, cannot come to an agreement, or in the case of failure by the House of Councillors to take final action within forty (40) days, the period of recess excluded, after the receipt of the budget passed by the House of Representatives, the decision of the House of Representatives will be considered the decision of the Diet.

Article LVII. The second paragraph of the preceding article applies also to the Diet approval required for the conclusion of treaties.

Article LVIII. Each House may conduct investigations in relation to national affairs, and may compel the presence and testimony of witnesses, and the production of records.

Article LIX. The Prime ,Minister and the Ministers of State may, at any time, appear in either House for the purpose of debating on bills, regardless of whether they are members of the House or not. They must appear when their presence is required in order to give answers or explanations.

Article LX. The Diet shall set up an impeachment court from the members of both Houses for the purpose of trying those judges against whom removal proceedings have been instituted.

Matters relating to impeachment shall be provided by law.

CHAPTER 5
THE CABINET

Article LXI. Executive power shall be vested in the Cabinet.

Article LXII. The Cabinet shall consist of the Prime Minister, who shall be its head, and other Minisers of State as provided for by law.

The Cabinet, in the exercise of executive power, shall be collectively responsible to the Diet.

Article LXIII. The Prime Minister shall be designated by a resolution of the Diet. This designation shall precede all other business.

If the House of Representatives and the House of Councillors disagree and if a joint committee of both Houses, provided for by law, cannot reach an agreement, or the House of Councillors fails to make designation within twenty (20) days, exclusive of the period of recess, after the House of Representatives has made designation, the decision of the House of Representatives shall be the decision of the Diet

Article LXIV. The Prime Minister shall, with the approval of the Diet appoint the Ministers of State. The second paragraph of the preceding article shall apply to this approval.

The Prime Minister may remove the Ministers of State as he chooses.

Article LXV. If the House of Representatives passes a non-confidence resolution, or rejects a confidence resolution, the Cabinet shall resign en masse, unless the House of Representatives is dissolved within ten (10) days.

Article LXVI. When there is a

vacancy in the post of Prime Minister, or upon the convocation of the Diet after a general election, the Cabinet shall resign en masse.

Article LXVII. In the cases mentioned in the two preceding articles, the Cabinet shall continue its functions until the time when a new Prime Minister is appointed.

Article LXVIII. The Prime Minister representing the Cabinet, submits bills, reports on general national affairs and foreign relations to the Diet and exercises supervision and control over various administrative branches.

Article LXIX. The Cabinet, in addition to other general administrative functions shall:

Administer the law faithfully; conduct affairs of State.

Manage foreign affairs.

Conclude treaties. However, it shall obtain prior or, depending on circumstances, subsequent approval of the Diet.

In accordance with standards established by law, administer the civil service.

Prepare the budget, and present it to the Diet.

Enact cabinet orders in order to carry out the provisions of this Constitution and of the law. However, it cannot include penal provisions in such cabinet orders unless authorized by such law.

Decide on general amnesty, special amnesty, commutation of punishment, reprieve, and restoration of rights.

Article LXX. All laws and cabinet orders shall be signed by the competent Minister of State and countersigned by the Prime Minister.

Article LXXI. The Ministers of State, during their tenure of office, shall not be subject to legal action without the consent of the Prime Minister, but the right to take that action is not impaired hereby.

CHAPTER 6

JUDICIARY

Article LXXII. The whole judicial power is vested in a Supreme Court and in such inferior courts as are established by law.

No extraordinary tribunal shall be established, nor shall any organ or agency of the Executive be given final judicial power.

All judges shall be independent in the exercise of their conscience and shall be bound only by this Constitution and the laws enacted pursuant thereto.

Article LXXIII. The Supreme Court is vested with the rule-making power under which it determines the rules of procedure and of practice, and of matters relating to attorneys, the internal discipline of the courts and the administration of judicial affairs.

Public procurators shall be subject to the rule-making power of the Supreme Court.

The Supreme Court may delegate the power to make rules for inferior courts to such courts.

Article LXXIV. Removals of judges shall be accomplished by public impeachment only unless judicially

declared mentally or physically incompetent. No disciplinary action shall be administered by any executive organ or agency.

Article LXXV. The Supreme Court shall consist of such number of judges as may be determined by law; all such judges shall be appointed by the Cabinet and shall be retired upon the attainment of the age as fixed by law.

The appointment of the judges of the Supreme Court shall be reviewed by the people at the first general election of the House of Representatives following their appointment, and shall be reviewed again at the first general election of the House of Representatives after a lapse of ten (10) years, and in the same manner thereafter.

In cases mentioned in the foregoing paragraph, when the majority of the voters show that they favor the dismissal of a judge concerned, he shall be dismissed.

Matters pertaining to the review mentioned in the foregoing paragraphs shall be prescribed by law.

All such judges shall receive, at regular stated intervals, adequate compensation which shall not be decreased during their terms of office.

Article LXXVI. The judges of the inferior courts shall be appointed by the Cabinet from a list of persons nominated by the Supreme Court. All such judges shall hold office for a term of ten (10) years with privilege of reappointment, provided that they shall be retired upon the attainment of the age as fixed by law.

The judges of the inferior courts shall receive, at regular stated intervals, adequate compensation which shall not be decreased during their terms of office.

Article LXXVII. The Supreme Court is the court of last resort with power to determine the constitutionality of any law, order, regulation or official act.

Article LXXVIII. Trials shall be conducted and judgement declared publicly. Where, however, a court unanimously determines publicity to be dangerous to public order or morals, a trial may be conducted privately, but trials of political offenses, offenses involving the press and cases wherein the rights of people as reserved in Chapter 3 of this Constitution are in question, shall be conducted publicly without exception.

CHAPTER 7
FINANCE

Article LXXIX. The power to administer national finances shall be exercised as the Diet shall determine.

Article LXXX. No new taxes shall be imposed or existing ones modified except by law or under such conditions as law may prescribe.

Article LXXXI. No money shall be expended, nor shall the State obligate itself, except as authorized by the Diet.

Article LXXXII. The Cabinet shall prepare and submit to the Diet for its consideration and decision an annual budget for each fiscal year.

Article LXXXIII. In order to pro-

vide for unforeseen deficiencies in the budget a reserve fund may be authorized by the Diet to be expended upon the responsibility of the Cabinet.

The Cabinet shall be held accountable to the Diet for all payments from the reserve fund.

Article LXXXIV. All property of the Imperial Household, other than the hereditary estates, shall belong to the State. The income from all Imperial properties shall be paid into the national treasury, and allowances and expenses of the Imperial Household, as defined by law, shall be appropriated by the Diet in the annual budget.

Article LXXXV. No public money or property shall be appropriated for the use, benefit or support of any system of religion, or religious institution or association, or for any charitable, educational or benevolent purposes not under the control of public authority.

Article LXXXVI. A final audit of all expenditures and revenues of the State shall be made annually by a Board of Audit and submitted by the Cabinet to the Diet during the fiscal year immediately following the period covered.

The organization and competency of the Board of Audit shall be determined by law.

Article LXXXVII. At regular intervals and at least annually the Cabinet shall report to the Diet and the people on the state of national finances.

CHAPTER 8
LOCAL SELF-GOVERNMENT

Article LXXXVIII. Regulations concerning organization and operations of local public entities shall be fixed by law in accordance with the principle of local autonomy.

Article LXXXIX. The local public entities shall establish assemblies as their deliberative organs, in accordance with law.

The chief executive officers of all local public entities, the members of their legislative assemblies, and such other local officials as may be determined by law shall be elected by direct popular vote within their several communities.

Article XC. Local public entities shall have the right to manage their property, affairs and government and to frame their own charters within such laws as the Diet may enact.

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thereon, at a special referendum or at such election as the Diet shall specify.

Amendments when so ratified shall immediately be proclaimed by the Emperor in the name of the People, as an integral part of this Constitution.

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Article XCV. The Emperor or the Regent, the Ministers of State, the members of the Diet, judges, and all other public officials have the obligation to respect and uphold this Constitution.

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Article XCVI. This Constitution shall be enforced as from the day when the period of six months will have elapsed counting from the day of its promulgation.

The enactment of laws necessary for the enforcement of this Constitution, the election of members of the House of Councillors and the procedure for the convocation of the Diet and other preparatory procedures necessary for the enforcement of this Constitution may be executed before the day prescribed in the preceeding paragraph.

Article XCVII. As regards those who hold peerage on the effective date of this Constitution, their title shall remain valid for their lives, but no right of peerage shall from this time forth embody within itself any power of government.

Article XCVIII. If the House of Councillors is not constituted before the effective date of this Constitution, the House of Representatives shall sit as the Diet on that date and until such time as the House of Councillors shall be constituted.

Article XCIX. The term of office for half the members of the House of Councillors serving in the first term under this Constitution shall be three years. Members falling under this category shall be determined in accordance with law.

Article C. The Minister of State, members of the House of Representatives and judges in office on the effective date of this Constitution, and all other public officials who occupy positions corresponding to such positins as are recognized by this Consti-

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HOUSE OF PEERS AMENDMENTS

On September 6, 1946, the House of Peers voted three amendments to the draft constitution approved by the House of Representatives on August 24. These amendments were at once referred back to the House of Representatives, which voted its approval the following day, on September 7.

Following are the House of Peers amendments:

(1) Universal adult suffrage is hereby guaranteed with regard to the election of public officials. (Inserted in Article 15)

(2) The provision of the preceding paragraph does not preclude the House of Representatives from calling for the meeting of a joint committee of both Houses, provided for by law. (Added to Article 59)

(3) The Prime Minister and other Ministers of State shall be civilians. (Inserted in Article 66)

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GENERAL MacARTHUR'S ANNOUNCEMENT CONCERNING THE PROPOSED NEW CONSTITUTION FOR JAPAN

6 March 1946

It is with a sense of deep satisfaction that I am to-day able to announce a decision of the Emperor and Government of Japan to submit to the Japanese people a new and enlightened constitution which has my full approval. This instrument has been drafted after painstaking investigation and frequent conference between members of the Japanese Government and this headquarters following my initial direction to the cabinet five months ago.

Declared by its terms to be the supreme law for Japan, it places soverignty squarely in the hands of the people. It establishes governmental authority with the predominant power vested in an elected legislature, as representative of the people, but with adequate check upon that power, as well as upon the power of the Executive and the Judiciary, to insure that no branch of government may become autocratic or arbitrary in the administration of affairs of state. It leaves the throne without governmental authority or state property, subject to the people's will, a symbol of the people's unity. It provides for and guarantees to the people fundamental human liberties which satisfy the most exacting standards of enlightened thought. It severs for all time the shackles of feudalism and in its place raises the dignity of man under protection of the people's sovereignty. It is throughout responsive to the most advanced concept of human relations - is an eclectic instrument, readistically blending the several divergent political philosophies which intellectually honest men advocate.

Foremost of its provisions is that which, abolishing war as a soveriegn right of the nation, forever renounces the threat or use of force as a means for settling disputes with any other nation and forbids in future the authorization of any army, navy, air force or other war potential or assumption of rights of belligerency by the state. By this undertaking and commitment Japan surrenders rights inherent in her own sovereignty and renders her future security and very survival subject to the good faith and justice of the peace loving peoples of the world. By it does a nation, recognizing the futility of war as an arbiter of international issues, chart a new course oriented to faith in the justice, tolerance and understanding of mankind.

The Japanese people thus turn their backs firmly upon the mysticism and unreality of the past and face instead a future of realism with a new faith and a new hope.

Serial No. 56

March 27, 1946

C: 11

ENCLOSURE

DRAFT CONSTITUTION FOR JAPAN

The following statement of policy, adopted by the Far Eastern Commission on 20 March 1946 under the provisions of paragraph II, A, 1, of its terms of reference, has been received from the State, War and Navy Departments for transmission to SCAP as a directive for his guidance in accordance with paragraph III, 1, of those terms of reference:

"The Commission has received from the United States Government the text of a draft constitution which appears to have been drawn up in compliance with an Imperial rescript, the text of which has also been supplied by the United States Government, along with the Supreme Commander's comments on that text.

"The opening sentences of this draft indicate to the Commission that it will be presented to the first session of the Japanese Diet which will be chosen at the forthcoming general elections. The Commission therefore assumes that this and possibly other texts will be debated in the Diet and that amendments may be offered and perhaps other proposals introduced.

"The Commission, therefore, desires that the Supreme Commander keep it informed of the progress and development of this and other drafts that may be considered by the Diet.

"For mindful of its responsibilities under its terms of reference for the formulation of policy in regard to the implementation of the surrender terms, and of the important bearing which this or any other proposed changes in the constitutional structure of Japan may have upon the decisions in carrying out that responsibility, the Commission desires that the Supreme

Commander for the Allies make clear to the Japanese Government that the Far Eastern Commission must be given an opportunity to pass upon the final draft of the constitution to determine whether it is consistent with the Potsdam Declaration and any other controlling document before it is finally approved by the Diet and becomes legally valid.

"The Commission believes that in this way hasty action by the Japanese Diet will be prevented and time given for all elements inside and outside the Diet to consider this very important question and bring to that consideration all available thought produced by the freely expressed will of the Japanese people.

"In this connection the Commission notes the encouragement given to the Japanese people in the Supreme Commander's announcement that this draft of a proposed constitution has his personal approval. It is somewhat apprehensive that this approval may be misunderstood by the Japanese public and taken to mean that this particular draft has the approval of the powers represented on this Commission.

"As such is not necessarily the case and as the Commission does not want to take any action in regard to this or any other draft constitution that might prejudice Japanese public opinion for or against any proposal of this nature, it considers that the Supreme Commander for the Allied Powers should in some appropriate manner make it known to the Japanese people that while this draft of a proposed constitution is a document of obvious merit and is available now for consideration and study, the fact that it is a draft prepared by the government does not preclude favorable consideration of other proposals or drafts which may be submitted to the Diet for study and comparison.

"The Commission requests that the United States Government inform

the Supreme Commander of its views as expressed above, and since the constitutional issue is one that is likely to influence the votes of the electors, it do so with a minimum of delay."

Serial No. 47 23 May 1946

C: 12

ENCLOSURE

PRINCIPLES GOVERNING THE MACHINERY

FOR THE ADOPTION OF A NEW JAPANESE CONSTITUTION

The following directive, prepared by the Department of State to implement the policy adopted by the Far Eastern Commission on 13 May 1946 under the provisions of paragraph II, A, 1, of its terms of reference, has been received from the State, War and Navy Departments for transmission to you for guidance in accordance with paragraph III, 1, of those terms of reference:

DIRECTIVE ON PRINCIPLES GOVERNING THE MACHINERY FOR THE ADOPTION OF A NEW JAPANESE CONSTITUTION.

The criteria for the adoption of a new constitution should be such as to ensure that the constitution, when finally adopted, is, in fact, a free expression of the will of the Japanese people. To this end, you will require observance of the following principles:

A. Adequate time and opportunity should be allowed for the full descussion and consideration of the terms of the new constitution.

B. Complete legal continuity from the constitution of 1889 to the new constitution should be assured.

C. The new constitution should be adopted in such a manner as to demonstrate that it affirmatively expresses the free will of the Japanese people.

C: 13

GENERAL MacARTHUR'S STATEMENT ON SUBMISSION OF DRAFT CONSTITUTION TO DIET

21 June 1946

With the submission to the Diet of a proposed revision of the constitution, the Japanese people face one of the vital moments in the life of Japan. The fundamental charter of their existence will be determined by the action taken on this monumental question. In its solution, it has been and continues to be imperative (a) that adequate time and opportunity be allowed for the full discussion and consideration of the terms of such a charter; (b) that the procedure followed assures complete legal continuity with the constitution of 1889 now existing; and (c) that the manner of adoption of such a charter demonstrates that it affirmatively expresses the free will of the Japanese people.

These criteria governing the mechanics involved in constitutional revision thus far have been scrupulously followed, and they must continue to guide now that the issue is before the National Diet. For over eight months the revision of the constitution has been the paramount political consideration under discussion by all parties and all classes of the Japanese people. Numerous drafts have been prepared by the various political parties, educational groups, publicists, and individuals of all shades of thought and opinion. The press and radio and every other medium of discussion have been employed to an extent seldom witnessed in any national forum. Rarely has a fundamental charter, regulative of national life, been more thoroughly discussed and analyzed.

The Government Draft now before the Diet is a Japanese document and it is for the people of Japan, acting through their duly elected representatives, to determine its form and content -

whether it be adopted, modified or rejected. It therefore behooves members of the Diet to act upon this vital matter with the solemnity, with the wisdom and with the patriotism which they owe their country and the people they represent - scrupulously avoiding the influence of political creed, undue ambition, or selfish intrigue.

The present Japanese constitution provides in Article LXXIII: 'When it has become necessary in future to amend the provisions of the present constitution, a project to the effect shall be submitted to the Imperial Diet by Imperial Order. In the above case, neither House can open the debate, unless not less than two-thirds of the whole number of Members are present, and no amendment can be passed, unless a majority of not less than two-thirds of the Members present is obtained." It was in view of this constitutional requirement that the Government took measures to the end that the last election, which qualified the members of this Diet, was held with the Government Draft Constitution squarely before the people and under the paramount consideration that those elected would be charged with the duty of acting thereon. Few elections in modern times could be regarded as more truly democratic, reliable and expressive of the free will of the people. As a consequence the Diet which emerged therefrom is fully representative and qualified to express the will of the people on this issue.

In the course of legislative action upon this matter, it is incumbent upon the Diet that it assure to all members the free, fair and untrammelled right of discussion and debate, and that it give thoughtful consideration to every suggestion offered by its membership, regardless of strength or party affiliation. If it

approach its task with that high sense of duty, it will serve the nation well, as on the issue of a democratic constitution rests the future well-being of the Japanese people.

C: 14

ENCLOSURE

6 July 1946

Serial No. 56

BASIC PRINCIPLES FOR A NEW JAPANESE CONSTITUTION

The following statement of policy, adopted by the Far Eastern Commission on 2 July 1946 under the provisions of paragraph II, A, one, of its terms of reference has been received from the State, War and Navy Departments for transmission to you as a directive for your guidance in accordance with paragraph III, one, of those terms of reference. You should take appropriate steps consistent with the directives on Draft Constitution for Japan* and Principles Governing the Machinery for the Adoption of a New Japanese Constitution,** to insure that any constitution adopted by the Japanese conforms to the principles set forth in this statement:

"1. The Japanese Constitution should recognize that sovereign power resides in the people. It should be so framed as to provide for:

a. A representative government based upon universal adult suffrage consisting of:

(1) An executive deriving its authority from and responsible to either the electorate or a fully representative legislative body;

(2) A legislature, fully representative of the electorate, which should have full legislative powers, including full control over raising of public revenue and expenditure of public funds;

b. The establishment of an independent judiciary;

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* Serial No. 36 - FEC-031/4
** Serial No. 47 - FEC-031/10

c. The guarantee of fundamental civil rights to all Japanese and to all persons within Japanese jurisdiction. All Japanese shall enjoy equal rights before the law and no special privileges of particular social groups such as the nobility shall be allowed.

d. The popular election of heads of institutions of local government such as prefectures, cities, towns and villages;

e. The popular election of local assemblies such as prefectural, city, town, and village;

f. The adoption of constitutional amendments in a manner which will give effect to the freely expressed will of the Japanese people.

2. Though the ultimate form of government in Japan is to be established by the freely expressed will of the Japanese people, the retention of the Emperor Institution in its present constitutional form is not considered consistent with the foregoing general objectives. Consequently, the Japanese should be encouraged to abolish the Emperor Institution or to reform it along more democratic lines.

3. If the Japanese people decide that the Emperor Institution is not to be retained, constitutional safeguards against the institution will obviously not be required, but the Constitution will have to conform to the requirements of paragraph 1 and shall also provide:

a. That the legislature shall have sole authority over financial measures and any other organ shall possess only a temporary veto power over other legislative measures;

b. That the Prime Minister and the Ministers of State, all

of whom shall be civilians and of whom a majority, including the Prime Minister, shall be selected from the Diet, shall form a Cabinet collectively responsible to the legislature. If a system of government is adopted whereby the Chief Executive is elected to that office by the people, the provision that a majority of the Cabinet members shall be chosen from the legislature should not necessarily apply;

c. That the legislative organ shall have the power to meet at will.

4. If the Japanese decide to retain the Institution of the Emperor, the following safeguards in addition to those enumerated in 1 and 3 above will be necessary:

a. When a Cabinet loses the confidence of the legislature, it shall either resign or appeal to the electorate;

b. The Emperor shall have no powers other than those to be conferred on him by the new Constitution. He shall act in all cases in accordance with the advice of the Cabinet.

c. The Emperor shall be deprived of all military authority such as that provided in Articles XI, XII, XIII, and XIV of Chapter 1 of the Constitution of 1889;

d. All property of the Imperial Household shall be declared property of the State. The expenses of the Imperial household shall be appropriated by the legislature.

5. The retention of the Privy Council and the House of Peers in their present form and with their present powers is not considered consistent with the foregoing general objectives."

C; 15

[redacted]

GENERAL HEADQUARTERS
SUPREME COMMANDER FOR THE ALLIED POWERS
Government Section

25 August 1946

MEMORANDUM FOR THE CHIEF, GOVERNMENT SECTION.

SUBJECT: POWERS OF THE DIET WITH REGARD TO CONSTITUTIONAL AMENDMENTS UNDER THE MEIJI CONSTITUTION.

I. INTRODUCTION.

The fundamental political transformation which Japan is undergoing as a consequence of her defeat and occupation has been fittingly characterized as "induced revolution." While it is true that the element of violence usually connected with the notion of revolution is absent, the collapse of the powers of the past and the acceptance of the Potsdam Declaration by the Japanese Government has been followed by a period of transition in which, under the direction and guidance of SCAP, social and political innovations materialize of such scope and with such a speed that the resemblance of certain features of the present development to conditions of a revolutionary nature cannot possibly be denied.

However, the constitutional lawyer is more concerned with the legal forms under which the political pattern of a nation changes than with the evaluation of the actual dynamics of such changes. He may still be satisfied that what has happened in Japan within the last year and what is happening at the present time does not constitute a breach of the constitutional continuity regardless of whether the historian retroactively might characterize it as revolutionary. Indeed, the retention of the Tenno institution has facilitated the legal fiction that the new Constitution submitted by the Emperor to the Diet is the legitimate successor of the Meiji Constitution. This fiction to which not only the Japanese Government, but also FEC and SCAP, adhere has resulted in the approach that not a completely new basic law, but an amendment of the Meiji Constitution is in the making. The political advantage of this construction is obvious, since it might become a safeguard against subsequent attempts to invalidate the new Constitution on the basis of legalistic arguments.

II. PURPOSE OF MEMORANDUM AND ANTICIPATED CONCLUSION.

The consequence of this legal situation is that the new Constitution must be enacted under the forms required in the Meiji Constitution for constitutional amendments. The main rules with regard to such amendments are contained in Article 73, which reads:

"When it has become necessary in future to amend the provisions of the present Constitution, a project to that effect shall be submitted to the Imperial Diet by Imperial Order.

"In the above case, neither House can open the debate, unless not less than two-thirds of the whole number of Members are present, and no amendment can be passed, unless a majority of not less than two thirds of the Members present is obtained."

The problem with which this Memorandum will deal is closely connected with the interpretation of this Article and may be formulated as follows:

When a project for a constitutional amendment has been submitted to the Diet by the Emperor, has the Diet the power to modify the project and enact additions to it, or may the Diet solely either adopt the project as a whole or reject it? This Memorandum comes to the conclusion that the Diet may enact such modifications and additions.

Although the analysis of this question was the primary task of the present Memorandum, the study of the constitutional literature as well as discussions with Japanese scholars revealed the existence of an even more important problem which arises with respect to the draft of a new Constitution. This problem concerns the scope of the initiative power of the Emperor regarding constitutional amendments and particularly the question whether the Emperor may submit to the Diet an amendment project which is designed to alter the fundamental principles of Japanese government or "the national polity." The discussion of this question had to be included in the Memorandum which otherwise would have been incomplete. The conclusion at which this writer arrives is that under the Meiji Constitution no limitations on the initiative power of the Emperor with regard to the change of the national polity exist.

III. OPINIONS AND LITERATURE

There are no precedents available for the procedure applied in connection with constitutional amendments. Since the Meiji Constitution has been in force, not a single amendment has been enacted. Robert Luce recalls the habit of men in all ages to think their institutions incapable of substantial betterment and the fact that authors of written forms of government appear to have been particularly confident that their work was the best possible achievement and certain to endure. 1) It goes without saying that this attitude prevails more than anywhere else in Japan where the Constitution is thought of as Kokutai, a phrase which expresses "the national polity under the unbroken line of succession." The Constitution, regarded as a gift of the Emperor Meiji to his "subjects", has somehow partaken of the Emperor's sacred character. 2)

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1) Robert Luce: Legislative Principles, Boston, New York, 1930, p. 144

2) Harold S. Quigley: Japanese Government and Politics, New York, London, 1932, p. 46

It is not surprising, therefore, that discussions concerning the procedure with regard to constitutional amendments, and particularly with respect to the powers of the Diet have been relatively meager in Japanese legal literature. It is significant to note that even Prince Ito, usually considered as the father of the Meiji Constitution, does not touch on the first question with which this Memorandum is concerned. In his Comments he merely points out that when a project for the amendment of the provisions of the Constitution has been submitted to the deliberation of the Diet, the latter cannot take a vote on any matter other than that contained in the project submitted to it. 3)

a. Initiative Power of the Emperor.

Insofar as could be traced, there is unanimity among the Japanese legal experts that the sole power of initiating constitutional amendments rests with the Emperor. But here the other problem is involved which is closely connected with the whole issue of continuity. Although the Meiji Constitution does not contain any provisions restricting his initiative power, most writers hold that even the Emperor is subject to certain limitations when initiating changes of the Constitution. In their opinion, he cannot propose the abolition of those fundamental principles on which the Constitution is based. To do so would be political suicide, as Professor Miyazawa, expert on constitutional law at Tokyo Imperial University, expressed it in a conversation with the undersigned. It appears that these fundamental principles are identical with Kokutai or with the "national polity", which requires the unbroken line of imperial rulers. It becomes now clear that Minister Kanamori had in mind when he emphasized in the Diet that the national polity has remained unaltered. Ito takes up the point in the following remarks in his Comments:

"The Constitution has been personally determined by His Majesty the Emperor in conformity with the instructions transmitted to Him by His Ancestors and He desires to bequeath it to posterity as an immutable code of laws, whose provisions His present subjects and their descendants shall obey forever. Therefore the essential character of the Constitution should undergo no alteration.

"But law is advantageous only when it is in harmony with the actual necessities of society. Thus, although the fundamental character of the national polity is to continue unaltered for all ages to come, yet it may become necessary at some time in the future, to introduce more or less modifications in the less important parts of the political institutions, so as to keep them in touch with the changing phases of society." 4)

This view is shared by Professor Tatsukichi Minobe who holds that the contents of the amendment proposed by the Emperor cannot be such as to nullify or abolish the entire Constitution. The fundamental rule of the nation, which

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3) Prince Hirobumi Ito: Commentaries on the Constitution of the Empire of Japan. (translated), p. 142.

4) Ibid., p. 140

is identical with the national polity must, in his opinion, be continued unaltered, and he defines this fundamental rule as the principle laid down in Article 1 of the Constitution, which provides that the Empire of Japan shall be reigned and governed by a line of Emperors unbroken for ages. 5) He interprets the words "reigned over and governed" as meaning that the Emperor and his throne combines in himself the sovereignty of the state and the government of the country and of his subjects. 6)

Professor Miyazawa, a student of Minobe, maintained that in normal times, say in 1938, the Emperor would not have had the power to submit the draft of a completely new Constitution such as the present draft to the Diet, because the proposed reforms of the system of government would have been in conflict with the national polity. When asked who could have prevented him from doing so, Miyazawa answered, probably nobody, however then the change would not have been constitutional, but revolutionary in character. The situation is, according to his opinion, different now because the national polity has been basically changed in consequence of the acceptance by the Japanese Government of the Potsdam Declaration. There exists now a quasi-revolutionary situation so that the Meiji Constitution is alive only insofar as it is not in conflict with the Potsdam Declaration.

b. Powers of the Diet.

With regard to the question whether and to what extent the Diet has the power under Article 73 of the Meiji Constitution to modify the amendment project of the Emperor or to enact additional provisions, three schools of thought might be distinguished. The "orthodox theory" supported by the majority of writers, denies such power completely. Representative of this theory is N. Hatoyama who in a textbook in the English language makes the following remark on the subject:

> "The Imperial Diet cannot modify the project because the modification of the project is the introduction of a different project and thus interferes with the initiative power of the Emperor; the Diet is only to give or refrain from giving its consent to the project. 7)

An opposite view with respect to modifications is taken by Minobe and his students. Their theory is that the revision of the Constitution is also a function of the legislature and that "the procedure is merely a more respectful method than that used for ordinary legislation". While the Diet is denied the power of initiating constitutional amendments, it must deliberate and approve them. The right of approval, however, necessarily includes the right of modification. On the other hand, Minobe holds that the addition of modifications of

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5) Tatsukichi Minobe: Commentary on the Constitution, p. 722

6) p. 3, see also Article 4 of the Meiji Constitution

7) N. Hatoyama: The Japanese Constitution and Politics, Tokyo, 1940, p. 62

articles which are not included in the original draft or the addition of new articles by the Diet would constitute an assumption of the initiative power which the Diet is denied. To support this opinion, Minobe refers to the Comments of Ito who emphasizes that the Diet cannot take a vote on any matter other than that is contained in the project submitted to it. 8)

Minobe also fights the idea of the Emperor-granted Constitution, and some of his students go even so far as to maintain that under the Meiji Constitution the sovereignty is vested in the Emperor and in the Diet. This view was expressed to the undersigned by Ken Miyazaki, an official of the Bureau of Legislation.

A third school, while denying the Diet the power of modification, is concerned with the case when a revision draft of two or more articles of the constitution is submitted to the Diet and examines the question whether the two items may be considered separately. Here a distinction is made between the case that the two articles are closely related, for instance a general principle and exceptions thereto, and the case when no mutual relationship exists. In the first case they must be passed upon together, while in the second case the Diet could adopt one article of the proposed revision and reject the other. 9)

IV. DISCUSSION

a. Continuity and National Polity

Legal continuity is maintained according to constitutional theory by simultaneous abrogation of the old Constitution and coming into force of the new Constitution, both acts being accomplished by the same instrument. However, it is understood that amendments are subject to the rules set forth in the old Constitution. That is also true of the enactment of a completely new Constitution, which the present draft actually represents. Historical precedents according to which new Constitutions came to birth without a revolutionary situation are naturally rare, but in some instances the attempt has been made to camouflage the actual revolution behind a strictly legal procedure under the existing Constitution. The fundamental changes in the basic law of France in the summer of 1940, when Petain assumed dictatorial powers, is a good illustration of this phenomenon. The constitutional changes necessary to destroy the foundations of the Third Republic were voted on by the National Assembly in conformance with the Constitution of 1871. Even Hitler when coming to power in 1933 never gave up the fiction that he built up the Third Reich on the legal basis of the Weimar Constitution, by making ample use of the emergency power of the Reich President.

The Meiji Constitution itself does not indicate that the basic law of Japan could not be changed completely. The preamble uses the phrase, "when

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8) op. cit. p. 722

9) see Shimizu, Toru: On the Constitution, National Laws, p. 201 and
Dr. Hoshijiro Sato: Lectures on the Imperial Constitution,
1942, pp 368-370.

in the future it may become necessary to amend any of the provisions of the present Constitution", and Article 73 reads, "when it has become necessary in the future to amend the provisions of the present Constitution". No limitation regarding the scope and the contents of such amendments is included in these provisions. The idea that the national polity must remain unaltered forever has been interpreted into the Constitution subsequent to its passage and belongs to the realm of legal theory. It has its origin in the pious wish of the interpreters to retain the Tenno system in its traditional form and in the awe which most people, and particularly the Japanese, feel toward their Constitution. In this connection it appears significant that Ito did not actually consider illegal amendments of the Constitution which affected the fundamental principles of Japanese government. His comment on this point is very cautiously worded. It reads:

> "The essential character of the Constitution should undergo no alteration."

If the framers of the Constitution had intended to impose such important limitations on the initiative power of the Emperor, they would have seen to it that the Constitution contained an explicit and unequivocal statement to that purpose, as did the French Constitution of 1871 which provided that the republican form of government could not be changed in future. But apparently they did not go so far as to consider their constitutional pattern as designed for eternity, and, on the other hand, their respect for and subservient devotion to the Emperor would not have allowed them to limit his initiative power.

If this opinion is not approved, the position should be taken that the national polity has been affected by events other than formal amendments of the Constitution. To deny that the acceptance of the Potsdam Declaration by the Japanese Government has basically altered this national polity would come pretty near to an admission that the objectives of the Occupation cannot be achieved. It must be remembered that the national polity, according to Ito, is formulated in Art 1 of the Constitution, which proclaims that the Empire of Japan shall be reigned over and governed by a line of Emperors unbroken for ages eternal. This means that the Emperor combines in himself the sovereignty of the state (Art 4) and the government of the country and of his subjects. The situation, however, as it exists in fact and as it will be legally fixed in the new Constitution, is exactly characterized by the transition of the sovereignty from the Emperor to the people. As far as the new role of the Emperor is concerned, it might be defined by the French phrase "Le roi reigne, mais il ne gouverne pas."

While it cannot be denied, consequently, that the acceptance of the Potsdam Declaration has altered the national polity, this does not necessarily mean a break of legal continuity. The impact of international developments and treaties cannot be separated from the political life of a nation and must be taken into account when appreciating the evolution which this nation has undergone. The Meiji Constitution itself followed the reception of the European, which was brought about by the pressure of international events. There is no complete stability of governmental institutions, and changes are not exclusively effected by constitutional amendments. No Constitution can forever forbid

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future generations to adapt its interpretation to changed conditions unforeseeable by its fathers. The opinion of Professor Kawashima that the Meiji Constitution is alive only insofar as it does not conflict with the Potsdam Declaration might not be accepted as a generalization, but there is no doubt that under the impact of international and domestic developments the interpretation of the unalterability of the national polity has become untenable.

b. Modification of the Amendment Draft by the Diet.

The language of Article 73 of the Meiji Constitution does not give any clue regarding limitations of the Diet in its legislative function of deliberating constitutional amendments and voting on them. No explicit provision is included that the Diet has only the alternative of adopting or rejecting the revision project as a whole. Here, again, it has been a matter of subsequent interpretation to impose such limitation on the legislative branch of the government. The main argument is that any modification or addition to the proposed revision would impair the initiative power of the Emperor. This argument is, however, not convincing. The rule that constitutional amendments cannot be initiated by the Diet, but must be submitted to it by the Emperor establishes merely a distribution of powers, according to which the initiative belongs to the Emperor and the deliberation as well as the vote belongs to the Diet. As soon as the revision project has reached the Diet, it has passed the stage of initiation and entered that of legislative action, since constitutional amendments under the Meiji Constitution are part of the legislation. The right to vote modifications cannot be denied the Diet, because it is inherent in the very nature of legislation. To deny the Diet this right and compel it to vote either yes or no would mean to deprive it of its essential functions. To be sure, Art 5 of the Meiji Constitution states that the Emperor exercises the legislative power with the consent of the Imperial Diet, but this formulation does not imply that the Diet should not be free in the determination whether and to what extent it gives its consent. Modifications must be allowed the Diet even at the risk that the contents of the original project are considerably altered and the innovation might appear as a "different project." In this case it has become a different project when it was no longer in the stage of initiation.

If the theory which imposes limitations on the functions of the Diet is in part motivated by the apprehension that modifications of the Imperial project would be an expression of disrespect against the Emperor, it should be pointed out that the complete rejection of his project is even a greater shock to his prestige.

As to additions to the project, the question is, indeed, more doubtful than with regard to modifications. Although the borderline between the two is frequently not clearly definable, it would appear reasonable to require that additions are connected with the project and that they are not completely new amendments of the Constitution. However, this problem does not arise in the case of the present revision draft. The latter, being a comprehensive draft of a new Constitution, the distinction between modification and addition becomes meaningless, since the project itself is not limited to individual items. Therefore any addition is related to the project.

It is interesting to note that the Diet itself obviously shares the view presented in this Memorandum, as it has without reluctance assumed the right to modify individual articles, to strike out one article and to add four new articles.

If all the preceding arguments should be invalid, the Diet would, indeed, lack the right to vote on modifications or additions, and its decisions, inasfar as that right was exercised, would have to be considered as defective. But are they incurably defective? The writer does not believe so, but holds that the defect can be remedied if and when the Emperor gives his sanction to the constitutional amendment as revised by the Diet. According to Art 6 of the Meiji Constitution, the Emperor gives sanction to laws - and the Constitution is the supreme law of the nation - and orders them to be promulgated and executed. Since the argument against the power of modification is based solely on the assertion that it would interfere with the initiative power of the Emperor, any possible defect can be remedied if the Emperor, whose rights are assertedly impaired, himself sanctions the resolutions of the Diet. As the political situation actually is, he will undoubtedly sanction and promulgate the Constitution as passed by the Diet.

V. CONCLUSION

This Memorandum arrives at the following conclusions:

1. The power of the Emperor to initiate constitutional amendments is unlimited. He is not bound to retain the fundamental principles of Japanese government, usually referred to as the national polity, because:

a. the Meiji Constitution does not contain such limitation, which has been introduced by subsequent interpretation; and

b. even if such limitation was recognized before, the acceptance of the Potsdam Declaration has altered the Japanese national polity.

2. The Diet has the power to modify and supplement the amendment project of the Emperor, because:

a. Article 73 of the Meiji Constitution does not contain limitations with regard to the scope of deliberation and voting by the Diet;

b. Only the initiative belongs to the Emperor, but as soon as the project is submitted to the Diet, the latter is free to vote on it as on any other law;

c. The right to change and supplement drafts is inherent in the legislative assembly and constitutional amendments are part of the legislative functions; and

d. Even if the right of modification and addition should be denied the Diet, revisions enacted by the Diet against this rule would be remedied if and when the Emperor sanctions and promulgates the new Constitution, as revised by the Diet.

Enclosed: CIR

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/s/ ALFRED C. OPPLER
Chief Legal Officer
Governmental Powers Division

C: 16

Serial No. 60

October 10, 1946

FURTHER POLICIES RELATING TO A NEW JAPANESE CONSTITUTION

The following directive, prepared by the State Department to implement the policy adopted by the Far Eastern Commission on 25 September 1946 under the provisions of paragraph II, A, 1, of its terms of reference, has been received from the State, War, and Navy Departments for transmission to you for guidance in accordance with paragraph III, 1, of those terms of reference:

"The Far Eastern Commission reaffirms its previous decision, taken in FEC-031/19,* basic principles for a new Japanese Constitution, that all cabinet ministers should be civilians, and further decides as a matter of policy that the House of Councillors should not have a predominance over the House of Representatives. The Commission considers essential its continuing right to scrutinize the implementing legislation very carefully to insure that such predominance is not established."

*Serial No. 54

Serial No. 62

C: 17

October 28, 1946

DIRECTIVE REGARDING PROVISIONS FOR THE REVIEW OF A NEW JAPANESE CONSTITUTION

The following directive, prepared by the State Department to implement the policy adopted by the Far Eastern Commission on 17 October 1946 under the provisions of paragraph II, A, 1, of its terms of reference, has been received from the State, War and Navy Departments for transmission to you for your guidance in accordance with paragraph III, 1, of those terms of reference:

"1. The new constitution, which will in due season after promulgation become the legal successor of the present constitution with such changes as have been made or may be made as a result of consideration and policy decision of the Far Eastern Commission, shall be subject to further review by the Diet and the Far Eastern Commission in terms of the following paragraph.

"2. In order that the Japanese people may have an opportunity, after the new constitution goes into effect, to reconsider it in the light of the experience of its working, and in order that the Far Eastern Commission may satisfy itself that the constitution fulfills the terms of the Potsdam Declaration and other controlling documents, the Commission decides as a matter of policy that, not sooner than 1 year

and not later than 2 years after it goes into effect, the situation with respect to the new constitution should be reviewed by the Diet. Without prejudice to the continuing jurisdiction of the Far Eastern Commission at any time, the Commission shall also review the constitution within this same period. The Far Eastern Commission, in determining whether the Japanese constitution is an expression of the free will of the Japanese people, may require a referendum or some other appropriate procedure for ascertaining Japanese opinion with respect to the constitution.

COPY

C: 18

November 1st, 1946.

General of the Army Douglas MacArthur,
General Headquarters,
TOKYO.

My dear General,

I omitted to mention last evening my appeal to you regarding the proposed Imperial amnesty on this history making occasion of the promulgation of the New Constitution.

I learn you have made two stipulations regarding the amnesty that

A. Those committed in violation of the "Occupation Purposes"

B. Those committed in violation of the Election laws

should be excluded from the Imperial amnesty.

As you know the Imperial amnesty has been traditionally exercised in the past on memorable occasions but the present one in question is no ordinary one. I could not think of any event which could be more important than the present one and the Imperial amnesty, I think, should be done with this view in mind.

Frankly, I hoped you would approve of the amnesty without exceptions. I see your reason for excluding those under sentence in violation of the occupation purposes but I sincerely hope you would see your way to pardoning minor offenses in violation of the Election laws. I would like to emphasize again the fact that the present occasion is unique without parallel; in fact I feel this country is to be born, in the true democratic sense of the word, on this occasion.

Your favourable consideration of my wish will be very much appreciated by

Yours most sincerely,

/s/ Shigeru Yoshida
Shigeru Yoshida

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2 November 1946

Dear Mr. Prime Minister:

After careful consideration of your letter of November 1st, I have decided to withdraw my objection to including within the terms of the Amnesty those persons who committed crimes in violation of the election laws. The inclusion of this type of offender within the amnesty provisions will, of course, make it necessary to take even greater precautions to guard against corrupt practices and other abuses during the forthcoming elections.

Very sincerely,

DOUGLAS MACARTHUR

Mr. Shigeru Yoshida,
Prime Minister of Japan,
Tokyo.

C:19

GENERAL MacARTHUR'S MESSAGE ON
PROMULGATION OF THE NEW CONSTITUTION

The adoption of this liberal charter, together with other progressive measures enacted by the Diet, lays a very solid foundation for the new Japan. Like the product of all human endeavor, it has its frailties but by and large it shows how far we have come since hostilities ended. It represents a great stride forward toward world peace and good will and normalcy.

COPY

C:20

INPERIAL RESCRIPT

November 3, 1946

I rejoice that the foundation for the construction of a new Japan has been laid according to the will of the Japanese people, and hereby sanction and promulgate the amendments of the Imperial Japanese Constitution effected following the consultation with the Privy Council and the decisions of the Imperial Diet made in accordance with Article 73 of the said Constitution.

Signed: HIROHITO, Seal of the Emperor

This third day of the eleventh month of the twenty-first year of Showa (November 3, 1946)

Countersigned:

Prime Minister and concurrently Minister for Foreign Affairs	YOSHIDA Shigeru
Minister of State	Baron SHIDEHARA Kijuro
Minister of Justice	KIMURA Tokutaro
Minister for Home Affairs	OMURA Seiichi
Minister of Education	TANAKA Kotaro
Minister of Agriculture and Forestry	WADA Hiroo
Minister of State	SAITO Takao
Minister of Communications	HITOTSUMATSU Sadayoshi
Minister of Commerce and Industry	HOSHIJIMA Niro
Minister of Welfare	KAWAI Yoshinari
Minister of State	UEHARA Etsujiro
Minister of Transportation	HIRATSUKA Tsunejiro
Minister of Finance	ISHIBASHI Tanzan
Minister of State	KANAMORI Tokujiro
Minister of State	ZEN Keinosuke

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THE CONSTITUTION OF JAPAN

CABINET SECRETARIAT

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The Constitution of Japan

We, the Japanese people, acting through our duly elected representatives in the National Diet, determined that we shall secure for ourselves and our posterity the fruits of peaceful cooperation with all nations and the blessings of liberty throughout this land, and resolved that never again shall we be visited with the horrors of war through the action of government, do proclaim that sovereign power resides with the people and do firmly establish this Constitution. Government is a sacred trust of the people, the authority for which is derived from the people, the powers of which are exercised by the representatives of the people, and the benefits of which are enjoyed by the people. This is a universal principle of mankind upon which this Constitution is founded. We reject and revoke all constitutions, laws, ordinances, and rescripts in conflict herewith.

We, the Japanese people, desire peace for all time and are deeply conscious of the high ideals controlling human relationship, and we have determined to preserve our security and existence, trusting in the justice and faith of the peace-loving peoples of the world. We desire to occupy an honored place in an international society striving for the preservation of peace, and the banishment of tyranny and slavery, oppression and intolerance for all time from the earth. We recognize that all peoples of the world have the right to live in peace, free from fear and want.

We believe that no nation is responsible to itself alone, but that laws of political morality are universal; and that obedience to such laws is incumbent upon all nations who would sustain their own sovereignty and justify their sovereign relationship with other nations.

We, the Japanese people, pledge our national honor to accomplish these high ideals and purposes with all our resources.

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CHAPTER I. THE EMPEROR

Article 1. The Emperor shall be the symbol of the State and of the unity of the people, deriving his position from the will of the people with whom resides sovereign power.

Article 2. The Imperial Throne shall be dynastic and succeeded to in accordance with the Imperial House Law passed by the Diet.

Article 3. The advice and approval of the Cabinet shall be required for all acts of the Emperor in matters of state, and the Cabinet shall be responsible therefor.

Article 4. The Emperor shall perform only such acts in matters of state as are provided for in this Constitution and he shall not have powers related to government.

The Emperor may delegate the performance of his acts in matters of state as may be provided by law.

Article 5. When, in accordance with the Imperial House Law, a Regency is established, the Regent shall perform his acts in matters of state in the Emperor's name. In this case, paragraph one of the preceding article will be applicable.

Article 6. The Emperor shall appoint the Prime Minister as designated by the Diet.

The Emperor shall appoint the Chief Judge of the Supreme Court as designated by the Cabinet.

Article 7. The Emperor, with the advice and approval of the Cabinet, shall perform the following acts in matters of state on behalf of the people :

Promulgation of amendments of the constitution, laws, cabinet orders and treaties.

Convocation of the Diet.

Dissolution of the House of Representatives.

Proclamation of general election of members of the Diet.

Attestation of the appointment and dismissal of Ministers of State and other officials as provided for by law, and of full powers and credentials of Ambassadors and Ministers.

Attestation of general and special amnesty, commutation of punishment, reprieve, and restoration of rights.

Awarding of honors.

Attestation of instruments of ratification and other diplomatic documents as provided for by law.

Receiving foreign ambassadors and ministers.

Performance of ceremonial functions.

Article 8. No property can be given to, or received by, the Imperial House, nor can any gifts be made therefrom, without the authorization of the Diet.

CHAPTER II. RENUNCIATION OF WAR

Article 9. Aspiring sincerely to an international peace based on justice and order, the Japanese people forever renounce war as a sovereign right of the nation and the threat or use of force as means of settling international disputes.

In order to accomplish the aim of the preceding paragraph, land, sea, and air forces, as well as other war potential, will never be maintained. The right of belligerency of the state will not be recognized.

CHAPTER III. RIGHTS AND DUTIES OF THE PEOPLE

Article 10. The conditions necessary for being a Japanese national shall be determined by law.

Article 11. The people shall not be prevented from enjoying any of the fundamental human rights. These fundamental human rights guaranteed to the people by this Constitution shall be conferred upon the people of this and future generations as eternal and inviolate rights.

Article 12. The freedoms and rights guaranteed to the people by this Constitution shall be maintained by the constant endeavor of the people, who shall refrain from any abuse of these freedoms and rights and shall always be responsible for utilizing them for the public welfare.

Article 13. All of the people shall be respected as individuals. Their right to life, liberty, and the pursuit of happiness shall, to the extent that it does not interfere with the public welfare, be the supreme consideration in legislation and in other governmental affairs.

Article 14. All of the people are equal under the law and there shall be no discrimination in political, economic or social relations because of race, creed, sex, social status or family origin.

Peers and peerage shall not be recognized.

No privilege shall accompany any award of honor, decoration or any distinction, nor shall any such award be valid beyond the lifetime of the individual who now holds or hereafter may receive it.

Article 15. The people have the inalienable right to choose their public officials and to dismiss them.

All public officials are servants of the whole community and not of any group thereof.

Universal adult suffrage is guaranteed with regard to the election of public officials.

In all elections, secrecy of the ballot shall not be violated. A voter shall not be answerable, publicly or privately, for the choice he has made.

Article 16. Every person shall have the right of peaceful petition for the redress of damage, for the removal of public officials, for the enactment, repeal or amendment of laws, ordinances or regulations and for other matters; nor shall any person be in any way discriminated against for sponsoring such a petition.

Article 17. Every person may sue for redress as provided by law from the State or a public entity, in case he has suffered damage through illegal act of any public official.

Article 18. No person shall be held in bondage of any kind. Involuntary servitude, except as punishment for crime, is prohibited.

Article 19. Freedom of thought and conscience shall not be violated.

Article 20. Freedom of religion is guaranteed to all. No religious organization shall receive any privileges from the State, nor exercise any political authority.

No person shall be compelled to take part in any religious act, celebration, rite or practice.

The State and its organs shall refrain from religious education or any other religious activity.

Article 21. Freedom of assembly and association as well as speech, press and all other forms of expression are guaranteed.

No censorship shall be maintained, nor shall the secrecy of any means of communication be violated.

Article 22. Every person shall have freedom to choose and change his residence and to choose his occupation to the extent that it does not interfere with the public welfare.

Freedom of all persons to move to a foreign country and to divest themselves of their nationality shall be inviolate.

Article 23. Academic freedom is guaranteed.

Article 24. Marriage shall be based only on the mutual consent of both sexes and it shall be maintained through mutual cooperation with the equal rights of husband and wife as a basis.

With regard to choice of spouse, property rights, inheritance, choice of domicile, divorce and other matters pertaining to marriage and the family, laws shall be enacted from the standpoint of individual dignity and the essential equality of the sexes.

Article 25. All people shall have the right to maintain the minimum standards of wholesome and cultured living.

In all spheres of life, the State shall use its endeavors for the promotion and extension of social welfare and security, and of public health.

Article 26. All people shall have the right to receive an equal education correspondent to their ability, as provided by law.

All people shall be obligated to have all boys and girls under their protection receive ordinary education as provided for by law. Such compulsory education shall be free.

Article 27. All people shall have the right and the obligation to work.

Standards for wages, hours, rest and other working conditions shall be fixed by law.

Children shall not be exploited.

Article 28. The right of workers to organize and to bargain and act collectively is guaranteed.

Article 29. The right to own or to hold property is inviolable.

Property rights shall be defined by law, in conformity with the public welfare.

Private property may be taken for public use upon just compensation therefor.

Article 30. The people shall be liable to taxation as provided by law.

Article 31. No person shall be deprived of life or liberty, nor shall any other criminal penalty be imposed, except according to procedure established by law.

Article 32. No person shall be denied the right of access to the courts.

Article 33. No person shall be apprehended except upon warrant issued by a competent judicial officer which specifies the offense with which the person is charged, unless he is apprehended, the offense being committed.

Article 34. No person shall be arrested or detained without being at once informed of the charges against him or without the immediate privilege of counsel; nor shall he be detained without adequate cause; and upon demand of any person such cause must be immediately shown in open court in his presence and the presence of his counsel.

Article 35. The right of all persons to be secure in their homes, papers and effects against entries, searches and seizures shall not be impaired except upon warrant issued for adequate cause and particularly describing the place to be searched and things to be seized, or except as provided by Article 33.

Each search or seizure shall be made upon separate warrant issued by a competent judicial officer.

Article 36. The infliction of torture by any public officer and cruel punishments are absolutely forbidden.

Article 37. In all criminal cases the accused shall enjoy the right to a speedy and public trial by an impartial tribunal.

He shall be permitted full opportunity to examine all witnesses, and he shall have the right of compulsory process for obtaining witnesses on his behalf at public expense.

At all times the accused shall have the assistance of competent counsel who shall, if the accused is unable to secure the same by his own efforts, be assigned to his use by the State.

Article 38. No person shall be compelled to testify against himself.

Confession made under compulsion, torture or threat, or after prolonged arrest or detention shall not be admitted in evidence.

No person shall be convicted or punished in cases where the only proof against him is his own confession.

Article 39. No person shall be held criminally liable for an act which was lawful at the time it was committed, or of which he has been acquitted, nor shall he be placed in double jeopardy.

Article 40. Any person, in case he is acquitted after he has been arrested or detained, may sue the State for redress as provided by law.

CHAPTER IV. THE DIET

Article 41. The Diet shall be the highest organ of state power, and shall be the sole law-making organ of the State.

Article 42. The Diet shall consist of two Houses, namely the House of Representatives and the House of Councillors.

Article 43. Both Houses shall consist of elected members, representative of all the people.

The number of the members of each House shall be fixed by law.

Article 44. The qualifications of members of both Houses and their electors shall be fixed by law. However, there shall be no discrimination because of race, creed, sex, social status, family origin, education, property or income.

Article 45. The term of office of members of the House of Representatives shall be four years. However, the term shall be terminated before the full term is up in case the House of Representatives is dissolved.

Article 46. The term of office of members of the House of Councillors shall be six years, and election for half the members shall take place every three years.

Article 47. Electoral districts, method of voting and other matters pertaining to the method of election of members of both Houses shall be fixed by law.

Article 48. No person shall be permitted to be a member of both Houses simultaneously.

Article 49. Members of both Houses shall receive appropriate annual payment from the national treasury in accordance with law.

Article 50. Except in cases provided by law, members of both Houses shall be exempt from apprehension while the Diet is in session, and any members apprehended before the opening of the session shall be freed during the term of the session upon demand of the House.

Article 51. Members of both Houses shall not be held liable outside the House for speeches, debates or votes cast inside the House.

Article 52. An ordinary session of the Diet shall be convoked once per year.

Article 53. The Cabinet may determine to convoke extraordinary sessions of the Diet. When a quarter or more of the total members of

either House makes the demand, the Cabinet must determine on such convocation.

Article 54. When the House of Representatives is dissolved, there must be a general election of members of the House of Representatives within forty (40) days from the date of dissolution, and the Diet must be convoked within thirty (30) days from the date of the election.

When the House of Representatives is dissolved, the House of Councillors is closed at the same time. However, the Cabinet may in time of national emergency convoke the House of Councillors in emergency session.

Measures taken at such session as mentioned in the proviso of the preceding paragraph shall be provisional and shall become null and void unless agreed to by the House of Representatives within a period of ten (10) days after the opening of the next session of the Diet.

Article 55. Each House shall judge disputes related to qualifications of its members. However, in order to deny a seat to any member, it is necessary to pass a resolution by a majority of two-thirds or more of the members present.

Article 56. Business cannot be transacted in either House unless one-third or more of total membership is present.

All matters shall be decided, in each House, by a majority of those present, except as elsewhere provided in the Constitution, and in case of a tie, the presiding officer shall decide the issue.

Article 57. Deliberation in each House shall be public. However, a secret meeting may be held where a majority of two-thirds or more of those members present passes a resolution therefor.

Each House shall keep a record of proceedings. This record shall be published and given general circulation, excepting such parts of proceedings of secret session as may be deemed to require secrecy.

Upon demand of one-fifth or more of the members present, votes of the members on any matter shall be recorded in the minutes.

Article 58. Each House shall select its own president and other officials.

Each House shall establish its rules pertaining to meetings, proceedings and internal discipline, and may punish members for disorderly conduct. However, in order to expel a member, a majority of two-thirds or more

of those members present must pass a resolution thereon.

Article 59. A bill becomes a law on passage by both Houses, except as otherwise provided by the Constitution.

A bill which is passed by the House of Representatives, and upon which the House of Councillors makes a decision different from that of the House of Representatives, becomes a law when passed a second time by the House of Representatives by a majority of two-thirds or more of the members present.

The provision of the preceding paragraph does not preclude the House of Representatives from calling for the meeting of a joint committee of both Houses, provided for by law.

Failure by the House of Councillors to take final action within sixty (60) days after receipt of a bill passed by the House of Representatives, time in recess excepted, may be determined by the House of Representatives to constitute a rejection of the said bill by the House of Councillors.

Article 60. The budget must first be submitted to the House of Representatives.

Upon consideration of the budget, when the House of Councillors makes a decision different from that of the House of Representatives, and when no agreement can be reached even through a joint committee of both Houses, provided for by law, or in the case of failure by the House of Councillors to take final action within thirty (30) days, the period of recess excluded, after the receipt of the budget passed by the House of Representatives, the decision of the House of Representatives shall be the decision of the Diet.

Article 61. The second paragraph of the preceding article applies also to the Diet approval required for the conclusion of treaties.

Article 62. Each House may conduct investigations in relation to government, and may demand the presence and testimony of witnesses, and the production of records.

Article 63. The Prime Minister and other Ministers of State may, at any time, appear in either House for the purpose of speaking on bills, regardless of whether they are members of the House or not. They must appear when their presence is required in order to give answers or explanations.

Article 64. The Diet shall set up an impeachment court from among

the members of both Houses for the purpose of trying those judges against whom removal proceedings have been instituted.

Matters relating to impeachment shall be provided by law.

CHAPTER V. THE CABINET

Article 65. Executive power shall be vested in the Cabinet.

Article 66. The Cabinet shall consist of the Prime Minister, who shall be its head, and other Ministers of State, as provided for by law.

The Prime Minister and other Ministers of State must be civilians.

The Cabinet, in the exercise of executive power, shall be collectively responsible to the Diet.

Article 67. The Prime Minister shall be designated from among the members of the Diet by a resolution of the Diet. This designation shall precede all other business.

If the House of Representatives and the House of Councillors disagree and if no agreement can be reached even through a joint committee of both Houses, provided for by law, or the House of Councillors fails to make designation within ten (10) days, exclusive of the period of recess, after the House of Representatives has made designation, the decision of the House of Representatives shall be the decision of the Diet.

Article 68. The Prime Minister shall appoint the Ministers of State. However, a majority of their number must be chosen from among the members of the Diet.

The Prime Minister may remove the Ministers of State as he chooses.

Article 69. If the House of Representatives passes a non-confidence resolution, or rejects a confidence resolution, the Cabinet shall resign en masse, unless the House of Representatives is dissolved within ten (10) days.

Article 70. When there is a vacancy in the post of Prime Minister, or upon the first convocation of the Diet after a general election of members of the House of Representatives, the Cabinet shall resign en masse.

Article 71. In the cases mentioned in the two preceding articles, the Cabinet shall continue its functions until the time when a new Prime Minister is appointed.

Article 72. The Prime Minister, representing the Cabinet, submits